

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY TEVIS and NANCY TEVIS,)	
)	
Appellants,)	2:08-cv-02265-GEB
)	
v.)	<u>ORDER AFFIRMING BANKRUPTCY</u>
)	<u>COURT</u> *
PAUL CASS, JAN P. JOHNSON, OFFICE)	
OF THE U.S. TRUSTEE,)	
)	
Appellees.)	
_____)	

This is an appeal of the Bankruptcy Court's September 15, 2008 Order granting Summary Judgment in favor of Appellees. The Bankruptcy Court found that "there is no genuine issue of material fact as to the content of the Settlement Agreement, and Moving Defendants have shown as a matter of law that the Settlement Agreement bars Plaintiffs' claim against them." (Appellants' Opening Br. at 170.)

Appellants filed their Notice of Appeal with this Court on

* This matter is deemed suitable for decision without oral argument. E.D. Cal. R. 78-230(h).

1 September 25, 2008. Appellants' motion to proceed *in forma pauperis*
2 was granted on March 17, 2009, and the appeal was docketed on March
3 17, 2009. (Docket 1, 13, 14.) Also on March 17, 2009, in accordance
4 with Rule 8009 of the Federal Rules of Bankruptcy Procedure, the Clerk
5 of Court sent notice to Appellants informing them their brief shall be
6 served and filed within 15 days of the docketing of the appeal.
7 (Docket 15.) On March 31, 2009, Appellants filed their Opening Brief.
8 (Docket 16.) Appellees have not filed a brief.

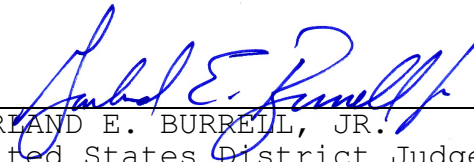
9 A district court reviews the bankruptcy court's legal
10 conclusions *de novo* and must accept the bankruptcy court's factual
11 findings unless they are clearly erroneous. In re Tucson Estates,
12 Inc., 912 F.2d 1162, 1166 (9th Cir. 1990).

13 Appellants' brief, which is nearly incomprehensible,
14 violates various formatting and page length requirements and lacks an
15 index of the excerpts of record. Appellants appear to argue that
16 Bankruptcy "Judge Holman did not accept. . . all the material
17 allegations. . . to be true" and "Judge Holman did not acknowledge
18 Appellants['] Evidence." (Appellants' Opening Br. 7:12-19.) Upon
19 reviewing the Bankruptcy Court's Order and all Excerpts of Record
20 before that court, it appears that the Bankruptcy Court properly found
21 that Appellants' "unsupported allegations [were] insufficient to
22 show[] a genuine issue for trial." (Appellants' Opening Br. at 170.)
23 The court also considered Appellant Larry Tevis's appearance in which
24 he represented to the court that the purpose of the proceeding was to
25 set aside a Settlement Agreement due to misrepresentations by the
26 Appellees. The court found, however, that the Complaint did "not set
27 forth any claim for relief seeking to set aside the Settlement
28 Agreement or articulate a basis upon which it should be set aside,"

1 and that it contained only "vague and ambiguous," "conclusory and
2 unsupported" allegations. (Id. at 169-70.) The Bankruptcy Court
3 correctly articulated and applied the standard for summary judgment
4 and was not clearly erroneous in its findings.

5 For the reasons stated above, the Bankruptcy Court's Order
6 is affirmed and the Clerk of Court shall close this case.

7 Dated: September 3, 2009

8
9 
10 _____
11 GARLAND E. BURRELL, JR.
12 United States District Judge
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28