

1 JUDGE HERB ROSS (Recalled)

2 UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA
3 605 West 4th Avenue, Room 138, Anchorage, AK 99501-2253 — (Website: www.akb.uscourts.gov)
4 Clerk's Office: 907-271-2655 (1-800-859-8059 In-State) — Judge's Fax: 907-271-2692

5
6 Case No. F12-00501-HAR
7 In re MARGARET A. BERTRAN,
8 Debtor(s)
9 DONALD A. TANGWALL, Trustee of the
10 Toni 1 Trust,
11 Plaintiff and Counter-Defendant,
12 v.
13 LARRY D. COMPTON, Bankruptcy
14 Trustee,
15 Defendant and Counter-Claimant,
16 BARBARA WACKER and WILLIAM
17 WACKER, jointly and severally,
18 Defendants.

In Chapter 7

Adv Proc No F12-90037-HAR

MEMORANDUM DENYING MOTION TO RECONSIDER [ECF No. 70]

17 Donald Tangwall filed a motion for reconsideration, despite being ordered not to file papers
18 *pro se* for plaintiff.¹ And, the motion is without merit in any event for the following reasons:

19 **NO INCONSISTENCES**- There is no inconsistency in the final judgment (ECF No. 69)
20 dismissing the complaint with prejudice, whereas a prior order (ECF No. 63) dismissed it without
21 prejudice. The first order left open the possibility that plaintiff might obtain counsel and
22 resurrect his claim. The final judgment was entered after a prove-up by Compton that he was
23 entitled to relief under 11 USC § 548(a)(1)(A), which foreclosed the opportunity to resurrect the
24 claim. So, dismissal with prejudice was appropriate.

25
26 ¹ECF No. 55.

1 ORDERS WERE ENTERED- The motion for reconsideration mistakenly alleges that several
2 motions were not ruled upon. An order denying intervention was entered at ECF No. 57. An
3 order denying removal of the trustee was entered at ECF No. 56.

4 ORDER FOR PRODUCTION WAS APPROPRIATE; REFUSAL TO PRODUCE WAS NOT
5 CRITICAL TO JUDGMENT- Plaintiff failed to produce documents ordered by the court at ECF
6 Nos. 32 and 36. No authority is cited why this was inappropriate. Even if it was, numerous other
7 badges of fraud exist to support the judgment.

8 JOHNS V. COUNTY OF SAN DIEGO²- Nowhere does this case say or imply that a
9 counterclaim is barred against a plaintiff whose complaint was dismissed for failing to obtain an
10 attorney.

11 MERITS- Plaintiff complains the \$137,000 Montana state court judgment against debtor was
12 deficient. It was a final judgment and one this court must recognize. There were sufficient
13 badges of fraud, even without it, to support prove-up of a default judgment.³

14 DATED: October 30, 2013

15
16 /s/ Herb Ross
17 HERB ROSS
U.S. Bankruptcy Judge

18 Serve :
19 Donald A. Tangwall, Trustee of Toni 1 Trust, π, HC10, M311, Fairbanks, AK 99701
20 Cabot Christianson, Esq., for Δ, Larry Compton
21 Larry Compton, Trustee
22 Erik LeRoy, Esq., for Δs Wacker
Margaret Bertran, debtor (courtesy copy)
21 Jason Crawford, Esq., bankruptcy attorney for debtor (courtesy copy)
22 Cheryl Rapp, Adv. Proc. Mgr.
Janet Stafford, Chief Deputy Clerk

23
24
25 ²*Johns v. County of San Diego*, 114 F.3d 874 (9th Cir. 1997).

26 ³*See*, the court's memorandum decision in support of the default judgment. ECF No. 68, pages 13-16.