

U. S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
www.flsb.uscourts.gov

In re: Leonid Omega et. al

Case No : 06 – 11562 – RBR / JKO

**Adv. Case :** Leonid Omega, Dan Gamo et al **vs.**

Soneet R. Kapila, individ. & as bankruptcy Trustee;

Reopen 2007 Case (2014) :

John a. Moffa Esq, Chapter 7 Estate, Musa Farraj et al.

**PETITION TO REVERSE FALSE, NO-CAUSE 2007 BANKRUPTCY and TO RESTORE  
RULE OF LAW, REPUTATION and HONOR of the COURT and for ACQUITTAL OF “DEBTOR”  
together with RESTORATION OF HIS HEISTED HOMESTEAD**

Motto : Broward County, FL, striking, hardly precedented Failure of Justice apparent of Court Record.

Honor and respect to the court, guardian of rule of law for our protection from harm, injury, and losses.

The challenge. Appearance of Legitimacy of Legal Process may be at stake: Bankruptcy court erred in 2006-07 amidst a flurry of cases after the 2005 Law Reform (1.6 Million US filings in 2010) and thus the Un-law displaced the rule of law in the court of law. This is less than tolerable. U.S. legal system stands and falls with its Rule of Law, yes „Rule of Law“ reiterates Mr. *Obama in 2012*.

*Memo: No law student should graduate without taking a class discussing this case at length.*

**Comes now, 7** difficult years after, Petitioner Leonid Omega on behalf all the victims and says :

**Case Statement.** Without legal cause, with no basis in law or fact, several US businessmen were bankrupted via an off-law legal process. Homes, homesteads, and businesses were taken and sold as part of the above contested Chapter-7 Estate beginning Dec 2006 months after it had been dismissed and closed.

**Procedure is not binding** on Petitioners inasmuch it has not been duly followed herein by anyone.

1. It is alleged and shown that stratospheric departures from procedure and other fatal errors held sway in the courtroom resulting in substantial deprivations and plunder of multiple assets, homes, homesteads, businesses, cars, tools, equipment, collections, personal belongings, and plantations<sup>1</sup> An ample record is preserved via multiple backups, organized, and annotated to facilitate back-searches.

2. The Ch-7 case had been Dismissed of right by Debtor on Oct 3, 2006 due to lack of causes prior to the critical judgments resulting in subsequent lack of jurisdiction. Any later Orders are moot, null, and void.

3. The underlying Ch-7 Case was baseless and fictional for lacking causes of action (a solid income was available, all dues were being paid, no insolvency existed, ample assets were present, no creditors were demanding their dues...). **No Debtor status was determined to exist** making the case fictitious, invalid, unlawful, wrongful. The case together with its results was and remains null, void, fictional, must be reversed

“ Bankruptcy is a legal process under federal law intended to not only insure fairness and equality among creditors but also to help the debtor by enabling himn to start anew with property he is allowed to retain as exempt from his liabilities, unhampered by pressure and discouragement of preexisting debts. 402 U.S. 637. (See also Collier Bankruptcy Manual, Ch. 1 - 3rd ed.). Mere financial embarrassment does not constitute bankruptcy; person is not bankrupt within the meaning of federal bankruptcy law until he has been adjudicated bankrupt .... (S. H. Gifis, Law Dictionary)

**Conclusion.** **No court can institute or continue valid bankruptcy proceedings without a prior determination of bankruptcy and debtor status of petitioner, i. e., w/out bankruptcy causes.**

Note : This court, and other courts, here and abroad, have repeatedly confirmed that where there is no cause, there is no case, no valid proceedings, no valid results. A murder case cannot proceed no less result in a sentence if there is no dead person, no murderer or his crime, no act of killing. If it does proceed, it ends up fictional, false, mock, wrongful, ... and, yes, perverted.

3. No Creditors holding secured loans on the Estate assets have received pay-offs from the Ch-7 Estate to this day, no accounting report has reached them despite 7 Motions requesting it. Exh „A“

4. The off-guard court used the Trustee Counsel Moffa's invalid, false, even scandalous “avoidable transfer” argument to achieve seizure and transfer of several properties into the highly contested Phantom Ch-7 Estate set up without meeting the critical, requisite Bankruptcy Code criteria.

5. Fraud on the Court plus other and further fatal defects were shown to invalidate the Ch-7 proceedings. A more detailed account with particulars and legal arguments will follow after this

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1 **Damages** are in the order of **Tens of Millions of dollars.**

complaint is filed and duly docketed and if a respective need arise. (A number of past papers failed to be docketed.)

**6. A homestead at 1945-47 Taft Street was uprooted. – A bizzar courtroom Fiction**

There was no party in attendance after the Oct 3, 2006 Dismissal. The homesteader, non-Debtor, was abroad and the court borrowed his ID and his dropped 'non-case' to stage and litigate a fiction. Here is how the court stripped the non-Debtor of his homestead rights by an artifice of words.

**Summary.** On Dec 7, 2006, the bankruptcy court 'permitted' the non-Debtor's subject, homesteaded property to be titled in the name of P. J. Trust, that did not exist and had never existed (except as an idea, an intention) and, saying that a Trust cannot have a homestead, subsequently abolished the latter.

Then, on Jan 10, 2007, the court found it appropriate to title the property back in the name of the non-Debtor. Did it find out there was no PJ Trust, after all? Not really, it did so just to be able to include it in the purported, fictitious Ch-7 Estate of the non-Debtor. The homestead rights were, however, not restored in this reversal as they should have been because that would preclude the inclusion in the Estate, whether true or false as the latter was.

Thus, the court transferred the subject property not only into a fictional Ch-7 Estate but the property **was homesteaded** and, hence, **exempt**, plus it was now exempt the 2<sup>nd</sup> time as the non-Debtor acquired it (from the previous owner, P. J. Trust, a real, court-incorporated Phantom) by the above court order 258 days (i. e., more than the permitted 180 days) after the original filing of Ch7.

7. As a result, the court could not properly authorise its subsequent inclusion in the Estate and allow the Trustee to sell it on May 14, 2007, as the latter did. As such, the non-Debtor has now a standing **claim for \$165,000** against the former Estate in this count alone ... plus severe damages

- a. **The Story.** The subject Ch-7 proceeding was dismissed on Oct 3, 2006, and the case closed.
- b. On Nov 27, 55 days after the Oct 3 dismissal, the bankruptcy court assumed jurisdiction in the resurrected case denying the former Petitioner the right not to seek relief or litigate. Thereafter, the court denied the non-debtor the not-needed, unsought discharge.
- c. By order of the bankruptcy court dated Jan 10, 2007, 258 days after Janata's filing of the April 26, '06, Chap 7, Dalimil Janata acquired the property at 1945-47 Taft St, the one he had lost by another court order to P.J. Trust on Dec 7, 2006. See ¶ 2 of the order. Janata had had the property homesteaded and had claimed the respective rights, i.e., in particular, the tax exemption, the exemption under bankruptcy laws, as well as the protection against forced sale, throughout the previous nine years. NOTE. According to Moffa & the court, the previous owner, P. Jydeco Trust, was a true, an independent entity, distinct from Janata. (Not so, however, when it came to assert the 'alter-ego' postulate.)
- d. By its order of Jan 12, 2006, the court permitted inclusion of the above homestead in the fictional Ch-7 bankruptcy estate and Moffa, counsel of trustee Kapila, **sold the home stead on May 14, 2007.**
- e. **Comment.** Pursuant to Bankruptcy Code any property or property interest that the Petitioner acquires later than 180 days after the filing cannot be included in the bankruptcy estate. Therefore, the inclusion of the above property in the estate pursuant to the order dated Jan 12, 2007, was improper on this yet another count. **The homesteaded property must be turned over back to Janata.**
- f. In addition, the property acquired by Janata pursuant to the Jan 10 order is one where Janata had continuous homestead rights and which was, therefore, exempt from the inclusion in the estate. Janata's homestead was duly documented on BCPA's website. Janata had asserted his homestead rights repeatedly before and after the Jan 10 court-ordered acquisition of the property and as recently as in his April 25 (May 3), 2007, Notice of Filing Re: Disruptions of Fla Homesteads.

NOTE: It is the claimant who asserts his homestead rights and it is the BCPA who verifies if the requisite criteria are met. No court can arbitrarily disregard this process or its facts and results duly established and evidenced by the county records. The bankruptcy court did.

7. About a dozen of creditors filed their claims with this court and also with the Court of Appeals, asserting their secured and unsecured, but proven to exist, claims. They are pending to be docketed and processed to this day. **An example:** EHQF Trust holds a secured interest, backed even by a County court judgment in the amount of **\$ 345,000**. It is waiting for its share of the Estate to this day ... **Exh. "A"**

**WHEREFORE,** the Petitioners move the court to enter an order reversing the subject Ch-7 Estate, restoring pre-April 2006 status quo, and/or paying all creditors, in particular the above EHQF Trust, and awarding damages (tbd. based on the respective 12 claims /2007/ pending in the 11<sup>th</sup> USCA) and cost.

**Re: Count 8. Fraud on the Court.** A tale of a free-style procedure. On April 26, 2006, Dalimil Janata filed an involuntary Chapter 7 petition <sup>3</sup> to prevent an unlawful (fraudulent ?) forced sale of his homestead on **paper liens allegations**. Janata dismissed the case and ceased to seek his discharge on Oct 3, 2006.<sup>4</sup> The same was later “denied” !

(The later denial of the discharge was, therefore, moot, arbitrary. The process was out of hand. <sup>5</sup> )

Abuse of Court Combined with Violation of Procedure . The foregoing reveals improper invasions into the judicial province of the court combined with a stark disregard for due process. In virtually all of his 24 Counts of the Complaint and Motion for Default Final Judgment, the trustee and /or his counsel follow a pattern (or scheme) which subverts the proper procedure and results in fraud on the court so as to achieve an improper purpose as follows.<sup>6</sup> (Sanctions, p. 4, par. 9.c)

Law defines ‘fraud on the court’ as “a lawyer’s or party’s misconduct in a judicial proceedings so serious that it undermines or is intended to undermine the integrity of the proceedings”.<sup>7</sup>

The following three-step process demonstrates how the procedure was perplexed, undermined, circumvented, and subverted herein (in addition to other bewildering abuses). Illustration (“Ill.”) follows after the story.

**One** . In any given count, trustee states the relief he seeks (false as it is) up front as a fact (In Ill. Highlighted) supporting it w/ vague, unintelligible allegations and reasoning offered w/o particularity, proof, truth or logic

**Two**, the trustee proceeds to ask the court to ‘find’ (meaning to ‘adjudge’), via its ‘declaratory’ judgment (based on abstract statements taken from the bankruptcy code such as the ones quoted in par. 13 of the subject declaratory judgment above <sup>8</sup> that this false ‘fact’ is true so as to convert IT (= the desired relief)

into a judgment. Rephrased: The ‘fact’ was not true to start with but as a result of the above stratagem it now pretends to be so by virtue of its endorsement via the respective declaration of the court (regardless the fact that the court cannot judicially determine facts!). False ‘facts’ about phantoms turned into (default) judgments!

**Three**, the result is a shortcut by which a judgment is obtained without need for real facts, evidence in their support, argument, or application of law. Thus, a one step process replaces and bypasses an entire litigation. Thereafter, an execution of this fact-judgment can ensue. (Note: let’s observe that facts are very distinct from judgments. Court cannot determine (adjudge) facts. Facts are at the beginning of the process and they must be found and established based on evidence and trial and not by an up-front statement as here!. The judgment, on the other hand, comes only at the very end of the process, if at all, after law has been applied to the facts. Not the other way round as the trustee’s counsel practices herein. Examples abound in any and all of the 24 Counts of the Complaint (or, rather, Motion, see).

**Illustration.** Let us consider, for example, ‘grounds’ and the accompanying ‘reasoning’ used in Trustee’s EX-Parte (!) motion for DFJ stated unchanged in up to 18 out of 24 counts of the property transfers into the bankruptcy ‘Estate’ by the Trustee by way of ‘avoiding’ old transfers by the (never adjudicated) “Debtor”.

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2Physical addresses were lost in the subject 2006 proceedings. They will be duly provided upon recovery.

3 Termed also “voluntary” although the true nature thereof was not such.

4 The court denied the non-Debtor’s no longer wanted and needed discharge on or about December 15 2006

5 Trustee’s counsel is rather vocal in pointing his finger at Petitioner and other Defendants by repeating ad infinitum his numerous unsupported allegations of fraud on the part of the Debtor to divert attention from self (see a dozen of illustrations in ¶ 9b

6 In fact, the departure not only from the procedure but also from truth, logic, common sense and administration of justice is nothing short of shocking and undoubtedly in serious error.

7 Black’s Law Dictionary, 7th ed· (1999)

8 Just to show that law is somehow at work ?

**Note 1.** A propos the 'Default': The phantom P. Jydeco Trust did not exist. Never did. Sure it could not answer or show up. (Why, even those who did exist would not participate in this mock proceedings.) That, however, was of no concern to the Trustee or Moffa. //The PJT was one of the 'traps' by the 'debtor'. It worked.//

**Note 2.** Yes, the 'proof' that 'Debtor' "received less than reasonably equivalent value" is because 11 U.S.C. § 544 (b) and Fla Statute § 726.105(1)(b) say so!! (Par. 10, 11)

(EX-PARTE MOTION FOR DEFAULT FINAL JUDGMENT, Adv. No: 06-02110-JK0, filed/served Jan 8, 2007, par. 8, 10, 11 on pp. 1, 3, 4)

8. Finding that P.JYDECO TRUST is the alter ego of the Debtor and is merely a device to delay and defraud the Debtor's creditors and that the property titled in the name of P. JYDECO TRUST, including, . . . . , is property of the Bankruptcy Estate of [Debtor]... and is subject to administration by the Trustee. [Again, the above states as a fact what, in fact, the perpetrator Trustee is asking from the court.]

"Said transfer of the Real Property from the Debtor to the Defendant [e. g., a trust] is an avoidable transfer, since pursuant to 11 U.S.C. § 544 (b) and Florida Statute § 726.105(1)(b), the Debtor received less than a reasonably equivalent value in exchange for the transfers and intended to incur, or believed or reasonably should have believed that the Debtor would incur, debts that would be beyond the Debtor's ability to pay as such debts became due." (par. 10) and (Supra, par.11, p.4) "Said transfer of the Real Property from the Debtor to the Defendant is an avoidable transfer, since pursuant to 11 U.S.C. § 544(b) and Florida Statute § 726.106(1), the Debtor received less than a reasonably equivalent value in exchange for the transfers, and the Debtor was insolvent at that time or the Debtor became insolvent as a result of the transfers." (Well, excuse me! not both! Is it 'WAS' or 'BECAME' later? And When? How? Where are any particulars? Support, Evidence?)

Now then, the Trustee /represented by John Moffa, Esq./ continues to ask that the court adjudge /read: rubber stamp/ that which he already stated above as a fact, w/o any support

**WHEREFORE** the Plaintiff requests that this Honorable Court enter an Order Granting the Exparte Motion for Default Final Judgment and enter a Judgment in favor of the Plaintiff declaring that the P. Jydeco Trust is the alter ego of the Debtor and is property [sic] of the estate, enter an Order avoiding the transfers of the real property for the Debtor to the Defendant as an avoidable transfer, pursuant to 11 U.S.C. § 544(b), Flo-rida Statute § 726.105(1)(a), Florida Statute § 726.105(1)(b) and Florida Statute § 726.105(1)

**Re Count 9. No Causes of Action for Bankruptcy.** Process of Law Perverted.

The bankruptcy trustee himself, by and through Moffa, his counsel, offers a proof of invalidity of the baseless, underlying Chapter 7 case. Out of the total ca 350 speaking court papers, possibly more than a hundred of them start out by stating and affirming in their opening paragraph, over and over again, the following fatal statement of the false cause of action (Motion to Vacate, par. 6.) "The Debtor filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code on Apr 26, 2006, and Soneet Kapila was appointed as the Chapter 7 Trustee." This is an obvious, no small an error to wit, **First**, filing of a paper does not constitute a valid cause of action (and no, there was no other).<sup>9</sup>

**Second**, neither does mere appointment of a person as trustee mean creation of a valid estate into which one can transfer anything by merely rubber-stamping a self-serving court paper (order).

3. nowhere does the Trustee say a word of the voluntary dismissal for lack of causes on Oct 3, 2006 . Thereafter, turning into an all-out, ill-conceived fantasy, the proceedings veered out of control becoming fictional, perverted, and a travesty. The initial non-debtor, Janata, the former petitioner, was eventually bankrupted as a result of the proceedings designed to help him out of bankruptcy if there had been one, of which, however, there was none.

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9 A glance at the docket reveals that there has been no adjudication of debtor status to establish his insolvency, lack of assets, or existence of creditors' claims, etc. The legal primer establishes that for a valid case there must exist a valid cause. Here, however, there is none.

Complexities of great proportions that confounded the parties, non-parties, even Moffa the mastermind him-self, and the court, ensued in this comedy of errors. The court itself made many substantial, unforced errors and was repeatedly disqualified. However, the court continued to entertain the illegitimate, non-due process, fictional case. All the way to the end.

**Summary.** The above shortcut to Plaintiff's total ruin was disputed, just like herein, on several counts: the neighbor's "estate" was fictional as there was no valid case (no causes of bankruptcy or debtor status of the neighbor were ever adjudicated or otherwise shown to exist, refer to early docket); the up-front baseless case had been dismissed on Oct 3, 2006; even if there had been a legitimate bankruptcy and the dismissal had not taken place, transfers of interests dating back more than two years would have had to meet stringent criteria which were not met herein or even attempted to address; and, last, Plaintiff's homestead would have been exempt even if the purported bankruptcy had been his own rather than one of his neighbor.<sup>10</sup>

**Finally**, the other Statutes cited in support of Trustees Motion for DFJ were not applicable as the necessary conditions therefor were not met or shown to exist. They were copied from the book just for a show.

As a result of all the above, the Chapter 7 Case No. 06-11562-BKD-JKO (Judge: John K. Olson) together with Adversary case No. 06-1927-BKC-JKO as well as several other adversary cases constitute an invalid, fictional non-suit at best and fabrication, significant abuse of process, and courtroom wrong-doing under color of bankruptcy law, if not a crime, at worst.

**WHEREFORE**, Plaintiffs pray that this court (Judge: J.K.O.-ohn K. Olson)

- declare the Plaintiff's loss of home and homestead in error (Case No. 06-11562-BKD-**JKO**)
- reverse, vacate and declare null and void the respective ruling of the court restoring Plaintiff's pre Nov 28, 2006 status quo, including restoration of Plaintiff's property at 1953 Taft St, Hollywood, FL, to its legal owner Claude Alli Trust and plaintiff's Life Lease and his homestead to Plaintiff
- award damages and cost to Plaintiff (tbd)
- reinstate Prime-Equity Loan instrument in the amount of **\$50,000** to Quest Academy Foundation
- award Quest Academy Foundation damages together with interest on \$50,000 over 7 yrs (at 63%)
- impose appropriate sanctions and punitive damages against the Ch-7 bankruptcy Estate . and its operators
- grant any other and further relief found proper and just.

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**IT IS HEREBY CERTIFIED** that a true copy of the foregoing Motion was furnished to none of the following, former adverse participants in the cause, except Soneet R. Kapila, c/o John A. Moffa (see below, via their e-mails [info@MBPA-Law.com](mailto:info@MBPA-Law.com), [msams@kapilaco.com](mailto:msams@kapilaco.com), [trustee@kapilaco.com](mailto:trustee@kapilaco.com), [trusteeattorney@AOL.com](mailto:trusteeattorney@AOL.com), [ron@bcpa.net](mailto:ron@bcpa.net) ) pending acceptance and docketing of the case :

John A. Moffa, Esq., 1776 No Pine Island Rd, Ste 102. Plantation, FL 33322-5200 (formerly 7771 West Oakland Park Blvd #141, SUNRISE, FL 33351) -- Peter Spindel, Esq., P.O.Box 166245, MIAMI, FL 33116-6245 -- Mark King, Esq., 1200 Brickell Ave, 11th Floor, Miami, FL 33131 -- Robert Oldershaw, Esq., 2600 Hwd Blvd., # 407, Hollywood, FL 33020, Douglas Gonzales, Esq., 3107 Stirling Rd, #300, Ft Lauderdale, FL 33312, David M. Brown, c/o Brown Van Horn, P.A., 330 N. Andrews Ave #450, Ft. Lauderdale, FL 33301, and BCPA, 114 So Andrews Ave, Ft. Lauderdale, FL 33301 / Ron Gunzburger, Esq. ([ron@bcpa.net](mailto:ron@bcpa.net)) on on this 31st day of March, 2014

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10 Trustee, by and through his counsel Moffa, may have abandoned procedure and law due to prevailing hostilities in the wake of **Motions for Sanctions** and escalating, controversial allegations. That is not lawful at all, though.