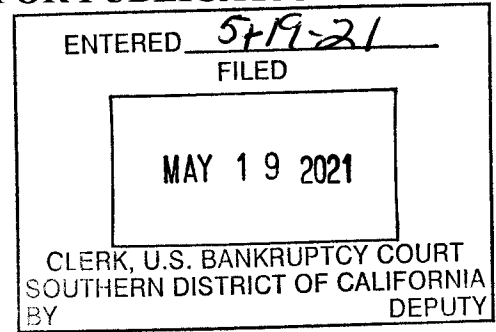


**WRITTEN DECISION - NOT FOR PUBLICATION**



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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re:

ANDY CHAN WA WONG & SHIRLEY  
TENG WONG,

Debtors.

} Bankruptcy No. 19-06717-LT7  
} Adversary No. 20-90027-LT

KYVAN NGUYEN,

Plaintiff,

v.

ANDY CHAN WA WONG & SHIRLEY  
TENG WONG,

Defendants.

} MEMORANDUM DECISION

In 2018, Plaintiff hired Defendant to remodel his kitchen; it did not go well for either party. Defendant complained that payments were delayed while Plaintiff got a remodel so riddled with problems that he ultimately obtained a judgment from the small claims court as well as an award from the Contractors State License Board (CSLB). Defendant then filed bankruptcy. Plaintiff characterizes the situation as fraudulent, and in this adversary

1 proceeding, he seeks to have these prepetition claims excepted from discharge under  
2 11 U.S.C. § 523(a)(2)(A).<sup>1</sup>

3 The Court held a trial and considered the evidence and argument provided by both  
4 parties. For the reasons set forth below, the Court finds that Plaintiff, who has the burden of  
5 proof, failed to establish that his claims arise from fraud as opposed to breach of contract,  
6 negligence, or other causes. Thus, his claims are properly discharged.

### 7 Facts

8 Plaintiff, Kyvan Nguyen, engaged Defendant Andy Wong<sup>2</sup> to partially remodel his  
9 kitchen. The parties attempted to memorialize their agreements in a written contract signed  
10 by both parties and dated September 18, 2018 (the "Contract"). The Contract is largely  
11 handwritten, is not a model of clarity (to put it mildly), and, as the CLSB already  
12 determined, fell woefully short of the requirements of the California Business and  
13 Professions Code. But what is clear from the document is that Defendant agreed to install a  
14 new kitchen cabinet, countertop, sink, faucet, and subway tiles (presumably for a  
15 backsplash, but that is a guess.)

16 The contract price was \$8,800.00. It assumed a 36" countertop, but, for an additional  
17 \$1,800.00, it allowed Plaintiff to add three additional cabinets and the then-required 42"  
18 countertop. Plaintiff elected this option. The Contract ambiguously included a reference to  
19 "DATE OF PLANS" under which was handwritten "Oct 1-5, 2018."

20 Defendant began work on October 5, 2018. On October 15, 2021, Defendant texted  
21 Plaintiff that the work was "basically done" and sent pictures of the kitchen. The next day,  
22 Defendant and Plaintiff met for an inspection. Plaintiff was not happy with the work, and

23  
24 <sup>1</sup> Unless otherwise indicated, all chapter, section and rule references are to the Bankruptcy Code,  
11 U.S.C. §§101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037.

25 <sup>2</sup> Plaintiff also named Shirley Wong as a defendant but never made an allegation against her in his  
26 complaint or at trial. Indeed, in his complaint he seeks relief against only "Debtor" which is defined  
27 as Mr. Wong. Thus, judgment in her favor on all claims for relief will be provided. The Court  
28 notes that to the extent Plaintiff named her in order to avoid the community property discharge as a  
result of the alleged fraud of her husband, this relief would be automatic if the Court denied her  
husband a discharge. See 11 U.S.C. § 524(b)(1).

1 Defendant was not happy when Plaintiff refused to make another progress payment.  
2 Tensions mounted, Defendant admits that he grew angry and threatened a mechanics' lien  
3 and foreclosure. Plaintiff felt sufficiently threatened by the interaction that he sought and  
4 obtained a restraining order. With no payments on the horizon and a restraining order  
5 barring him from access to the worksite, Defendant did no more work on the job. And he  
6 carried through on his threat and recorded a mechanic's lien.

7 The text exchanges in evidence and the testimony at trial evidence that tensions  
8 arose, at least initially, due to the delay in payment caused by PayPal procedures. Plaintiff  
9 apparently made payments, but they did not quickly end up in Defendant's hands. For  
10 example, Defendant explained that due to the payment delay, he did not have the money to  
11 purchase cabinet handles. And as the relationship unraveled, he complained that he did not  
12 have money for payroll. On Plaintiff's part the relationship appeared amicable until he  
13 discovered the poor quality of the remodel, confronted Defendant, and was threatened with  
14 a mechanic's lien and foreclosure.

15 In addition to the restraining order action, Plaintiff sued Defendant in small claims  
16 court and obtained a judgment in the amount of \$5,851.00 plus costs of \$75.00 based on the  
17 poor quality of the remodel and the resultant need for repair.

18 Plaintiff also filed a complaint with the CSLB. It investigated and found that  
19 Defendant violated several sections of the California Business and Professions Code in  
20 connection with his contracting, job performance, and use of the mechanic's lien process. It  
21 ordered Defendant to pay \$5,093 directly to Plaintiff and \$1,000 to CSLB.

22 Defendant thereafter filed a chapter 7 petition and commenced this case. He listed  
23 Plaintiff's judgments on his schedules. Plaintiff filed a timely complaint seeking, among  
24 other things, to have his claims declared nondischargeable.

25 Plaintiff's pro se complaint asserts three causes of action: (1) denial of discharge  
26 under § 727(a)(4) for "false oaths in his testimony,"; (2) nondischargeability of his Plaintiff's  
27  
28

1 claims under § 523(a)(2)(A)<sup>3</sup> for "numerous fraud, false pretenses, and false  
2 representations;" and (3) compelled removal of a mechanics' lien.

### 3 **The Trial**

4 In support of his case, Plaintiff filed his "Adversary Testimony" (Dkt. No. 53) which  
5 he adopted as his testimony under oath at the trial. He was cross-examined by Defendant's  
6 counsel. Plaintiff examined Defendant after he testified under oath. Trial concluded with  
7 closing arguments. At the trial, the Court ruled on the section 727 claim and the request for  
8 removal of the mechanics lien and took the § 523(a)(2)(A) claim under submission.

9 As to the § 727(a)(4) claim, at trial Plaintiff made clear that the alleged "false oaths  
10 in [Debtor's] testimony" referenced in his complaint occurred in the state court. As the  
11 Court explained at trial, in order for discharge to be denied under § 727(a)(4), the false  
12 representations must be made in connection with the bankruptcy case; false statements made  
13 in connection with prepetition litigation do not suffice. *See Cheung v. Fletcher*, 551 B.R.  
14 455, 460 (E.D. Cal. 2016) ("In order to bring a successful § 727(a)(4)(A) claim for false  
15 oath, the plaintiff must show: (1) debtor made a false oath in connection with the case;  
16 (2) the oath related to a material fact; (3) the oath was made knowingly; and (4) the oath was  
17 made fraudulently.") Debtor provided no evidence supporting a denial of discharge on this  
18 theory, and judgment in Defendant's favor on this point was granted at trial.

19 At trial, the Court also ruled that the claim requesting expungement of the mechanic's  
20 lien was mooted by Defendant's removal of the lien on January 27, 2021. As a result, the  
21 Court ruled that relief on this cause of action was not required.

### 22 **Discussion**

#### 23 **Section 523(a)(2)(A)**

24 To have a claim excepted from discharge under § 523(a)(2)(A), it is not sufficient to  
25 simply allege that a debtor told a lie, said something that turned out to be false, or made a  
26

27 <sup>3</sup> In the Complaint Plaintiff cites generally to § 523(a)(2). Since there are no allegations that  
28 Defendant misrepresented his financial condition, § 523(a)(2)(B) is not applicable; the Court does  
not consider it further.

1 promise but failed to live up to it. Rather, under controlling Ninth Circuit law, a creditor  
2 must establish each of the following elements with respect to each alleged  
3 misrepresentation:

4 (1) that the debtor made the representations;

5 (2) that at the time he knew they were false;

6 (3) that he made them with the intention and purpose of deceiving the creditor;

7 (4) that the creditor relied on such representations; [and]

8 (5) that the creditor sustained the alleged loss and damage as the proximate result of  
9 the representations having been made. *See Britton v. Price (In re Britton)*, 950 F.2d 602,  
10 604 (9th Cir. 1991); *Eugene Parks Law Corp. Defined Benefit Pension Plan v. Kirsh (In re*  
11 *Kirsh)*, 973 F.2d 1454, 1457 (9th Cir. 1992).

12 In some cases, a debtor's silence or omission of a material fact can also constitute a  
13 false representation under section 523(a)(2)(A). *Citibank (South Dakota), N.A. v. Eashai (In*  
14 *re Eashai)*, 87 F.3d 1082, 1088-89 (9th Cir. 1996). In order to find liability for fraud based  
15 on omission or silence, however, there must be a duty to disclose. *Id.*; *Apte v. Romesh*  
16 *Japra, M.D., F.A.C.C. Inc. v. Apte (In re Apte)*, 96 F.3d 1319, 1323 (9th Cir. 1996).

17 And the burden in a nondischargeability action is on the creditor; he must prove each  
18 element of fraud by a preponderance of the evidence. *Grogan v. Garner*, 498 U.S. 279, 290  
19 (1991). Indeed, exceptions to discharge should be strictly construed against an objecting  
20 creditor and in favor of the debtor. *Snoke v. Riso (In re Riso)*, 978 F. 2d 1151, 1154  
21 (9th Cir. 1992).

22 **Plaintiff's allegations of fraud do not support § 523(a)(2)(A)**  
23 **nondischargeability.**

24 In his written Adversary Testimony, Plaintiff identifies six alleged  
25 misrepresentations: (1) Defendant's representation that the remodel would begin on  
26 October 1, 2018 and be finished on October 5, 2018; (2) Defendant's representation that  
27 work would be completed with only a 9% deposit of \$800 required before that time;  
28 (3) Defendant's representation that he would deliver a particular quartz countertop Model

1 no. TS-505; (4) Defendant's representation that he would purchase and deliver specific  
2 handles for cabinet doors and drawers; (5) Defendant's representation that he would keep  
3 Plaintiff's house secure and the key in his possession; and (6) Defendant's omission of his  
4 alleged mechanic's lien rights from the Contract. At the trial, he also made the argument  
5 that Defendant fraudulently breached the guarantee in the Contract that the work would be  
6 completed in a "substantial workmanlike manner." The Court has considered each of the  
7 allegations and the allegedly supportive evidence presented by Plaintiff at trial. It also  
8 considered the testimony of the Defendant. While Plaintiff undoubtedly establishes that the  
9 remodel was not done appropriately, that the Contract was inadequate in multiple respects,  
10 and that Defendant was not entitled to record a mechanic's lien, he fails to establish that any  
11 of his damages arise from fraud in general or fraud in the inducement, as he appears to  
12 argue, in particular.

13 **1. The Contract is ambiguous as to the suggestion that Defendant agreed that**  
14 **the remodel would begin on October 1, 2018 and be finished on October 5, 2018, and**  
15 **the evidence does not otherwise establish that this alleged statement supports a**  
16 **judgment that the Plaintiff's claims are nondischargeable.**

17 The Court finds credible Plaintiff's testimony that he actually, at least initially,  
18 understood that the job would be done by October 5. But Plaintiff does not allege that  
19 Defendant told him the job would be done by October 5. Rather, he relies on the Contract  
20 which provided "DATE OF PLANS" under which was handwritten "Oct 1-5, 2018."  
21 Plaintiff testified that it was his understanding that this meant the job would start on  
22 October 1 and finish October 5, 2018. The Court could question the reasonableness of this  
23 assumption but declines to base its decision on this factor.

24 Defendant testified to the contrary: that the Contract's language meant the job would  
25 start within that time frame and that he complied by starting on October 5, 2018. The Court  
26 found his testimony credible as to his understanding of his own contractual obligations. The  
27 evidence does not support that he drafted this Contract term with fraudulent intent.  
28

1 The Court finds that this contractual language is not a basis for a claim of fraud or  
2 fraud in the inducement. The parties failed to achieve a meeting of the minds on this term.  
3 The evidence does not support that Defendant used this ambiguous language to fraudulently  
4 induce Plaintiff to enter into the contract.

5 In further support for this conclusion are several factors. First, Defendant provided  
6 credible testimony that, at some point, he told Plaintiff that this contractual reference was a  
7 date range to begin the job and that it was likely to take ten working days to finish. Second  
8 is the lack of clarity in the Contract. In fact, the CSLB found that one of Defendant's  
9 shortcomings was that the Contract failed to include the approximate date of completion; it  
10 cited Defendant for that failure. Third, the evidence indicates that Plaintiff came to  
11 understand that the job would not be commenced on October 1 or completed by October 5  
12 and raised no complaint before the start of construction. In a text on October 2, Plaintiff  
13 asked if Defendant would be starting Friday, the 5th, and was told by Defendant that he  
14 would. There is no evidence that Plaintiff declared a breach of contract or was disturbed by  
15 this schedule at the time of the email.

16 The Court finds that Plaintiff has failed to establish a claim under § 523(a)(2)(A)  
17 with respect to this alleged misrepresentation.

18 **2. The Plaintiff fails to establish that Defendant agreed to complete the remodel**  
19 **with only a 9% deposit of \$800; misunderstanding on this point is not the basis for a**  
20 **claim of fraud or fraud in the inducement.**

21 Plaintiff alleges that Defendant promised that until some unidentified time Plaintiff  
22 would have to pay only \$800 in connection with the remodel. He alleges that Defendant  
23 breached this promise when he demanded payment of \$5,000 for material before the job  
24 began. He alleges that he would not have entered into the Contract but for this term. But  
25 his testimony is vague as to when the promise was made. And it is not supported by the  
26 Contract.

27 First, the Plaintiff has not proved by a preponderance of the evidence that Defendant  
28 made this representation. At trial, Defendant credibly testified that he told Plaintiff that

1 Plaintiff would have to "pay as we go," and that Plaintiff would have to make progress  
2 payments. He testified that the \$800 payment was made to secure the agreement to do the  
3 job. Further, Plaintiff paid, or attempted to pay, \$5,000 on or before September 28 with no  
4 objection. This is not consistent with his stated belief that the job would be done before he  
5 had to pay anything beyond the \$800.00 deposit. Even if this was his initial understanding,  
6 he did not declare breach or otherwise dispute the required payment.

7 The Court also notes that common sense supports that Defendant would not agree to  
8 front all material costs before obtaining anything but a minimal payment.

9 The Court finds that Plaintiff has failed to establish by a preponderance of the  
10 evidence that Defendant promised to complete the job with a payment of only \$800.00.  
11 Again, the poorly drafted Contract may have led to misunderstanding, but the evidence does  
12 not support that Defendant made the suggested promise or that any misunderstanding on this  
13 point arises from fraudulent intent.

14 **3. The lack of availability of a 42" quartz countertop model no. TS-505 does not**  
15 **support a claim of fraud.**

16 Plaintiff argues that Defendant induced him to sign the Contract by promising to  
17 deliver a particular countertop, the TS-505 in the 42" size. He alleges that Defendant knew  
18 this was impossible. Plaintiff has established neither that Defendant represented that he  
19 would provide the TS-505 in the 42" size, nor that, if he did, he knew at the time that the  
20 representation was false.

21 The Contract specifies the TS-505 countertop but in relation to a smaller number of  
22 cabinets allowing a smaller countertop. The evidence supports that this size was available.  
23 The Contract also gave Plaintiff the right to add cabinets which would require a larger, 42",  
24 countertop. But Plaintiff did not testify that Defendant otherwise told him that he would  
25 deliver the TS-505 in the 42" length if Plaintiff opted for the larger size. And there is no  
26 evidence that Defendant knew that the longer length was unavailable even if the Contract is  
27 capable of evidencing a representation that the 42" countertop could be obtained.  
28



1 Plaintiff relies exclusively on the Contract for this alleged misrepresentation. And  
2 consistent with this evidence, Defendant credibly testified that he did not tell Plaintiff that  
3 he could provide the TS-505 in the 42" size. He also credibly testified that he did not know  
4 about the unavailability of the longer countertop at the time of the remodel and that he  
5 promptly advised Plaintiff when he learned about the problem. The evidence also supports  
6 that he did not force a noncomplying countertop on Plaintiff. True, his initial suggestion for  
7 an alternative did not please Plaintiff, but Defendant kept trying. Eventually they found  
8 something that worked.

9 Finally, Plaintiff has not claimed or provided evidence that he asked that the Contract  
10 be rescinded when he learned of the unavailability of the 42" TS-505. All evidence supports  
11 that the parties worked together to solve a supply problem.

12 The countertop bait and switch theory has not been established as a basis for  
13 § 523(a)(2)(A) nondischargeability.

14 **4. The evidence does not support that Defendant fraudulently agreed to deliver**  
15 **handles for cabinet doors and drawers but failed to do so.**

16 Plaintiff testified that Defendant agreed to pay for and deliver handles for the  
17 cabinets and drawers. At trial Defendant testified that the cabinet handles were not included  
18 in the contract price. Because the Contract is so poorly drafted, the Court is open to the  
19 argument that it could be modified, amended, and supplemented by later agreements. But  
20 here the alleged misrepresentation is inadequately supported by the evidence.

21 Plaintiff relies on an October 13 text exchange in which Plaintiff selected a particular  
22 handle "08155BN" to which Defendant replied "Ok." Plaintiff characterizes this as a  
23 promise to deliver the handles. Defendant credibly testified that he never promised that he  
24 could obtain a particular handle and explained that his "Ok" was merely an  
25 acknowledgement of the selection and his willingness to check availability. The text  
26 exchange then returned to the countertop selection process. Plaintiff testified that on  
27 October 15th, via text message, Defendant stated that he did not have money left to buy the  
28 handles. This appears unsurprising given the payment issues.

1 Finally, the Court notes that there is a logic problem here. The contract price was  
2 \$8,800.00. It defies reason that Defendant would allow Plaintiff unfettered right to choose  
3 handles with no dollar cap given this modest budget.

4 The Court has considered the testimony of both parties and finds that Plaintiff has  
5 failed to establish that Defendant promised him a particular handle or that he would  
6 purchase them without payment by Plaintiff. This theory does not support a § 523(a)(2)(A)  
7 claim.

8 **5. Plaintiff did not defraud Plaintiff by agreeing that he would keep his house**  
9 **secure when Plaintiff delivered the house key.**

10 Plaintiff contends that Defendant represented that he, Defendant, would maintain  
11 possession of Plaintiff's house key and that he would not have entered into the agreement if  
12 he knew Defendant would give the key to staff. He testified that he asked Defendant to hold  
13 the key.

14 At trial, Defendant credibly denied that he promised to personally retain possession  
15 of Plaintiff's house key at all times. He testified that he gave the key to his worker so that he  
16 could get in and do the work. He also testified that he had introduced his worker to Plaintiff  
17 on the first day of the job. Also, Defendant testified that he was at the jobsite with his  
18 worker except when he left to buy materials. The record establishes that Plaintiff knew  
19 Defendant was not always at the site; he exchanged text messages with Defendant while  
20 Defendant was at a materials supplier. The record also reflects that Plaintiff was aware that  
21 a worker other than Defendant had access to the key; in a text, Plaintiff explained that he  
22 would leave the key under an orange bucket and asked whether Defendant would maintain  
23 supervision of his staff. Defendant did not text an agreement but responded that his guy  
24 could not find the key at first, but eventually did.

25 The record does not establish that Defendant obtained the key or the job through a  
26 specific false promise that he would be on site at all times or that he otherwise defrauded  
27 Plaintiff in this regard. And while the remodel was of poor quality, there is no evidence that  
28 this damage arose from any issue related to possession of the key.

1 Finally, there was some testimony about Defendant's failure to immediately return  
2 the key. The Court finds credible that this delay arose from Defendant's desire to avoid  
3 violation of the protective order. He could not approach Plaintiff's home. And, in any  
4 event, it was returned without significant delay once instructions were provided.

5 Plaintiff has not met his burden of establishing that Defendant represented that he  
6 would always maintain possession of Plaintiff's house key. He has also provided no  
7 evidence that Defendant failed to maintain the security of Plaintiff's house.

8 The Court finds that Plaintiff has not established a claim under § 523(a)(2)(A) on this  
9 key/home security theory.

10 **6. Defendant's failure to provide contractual notice that Defendant would**  
11 **attempt a mechanics' lien is not a basis for a fraud claim.**

12 It is not disputed that the Contract did not contain a mechanic's lien warning. It is not  
13 disputed that as a licensed contractor Defendant was required by law to include such a  
14 warning in the Contract in order to obtain a mechanic's lien. But here the remedy is self-  
15 effectuating. Because Defendant did not give appropriate written notice, Defendant has no  
16 right to record a mechanic's lien. And Defendant has recognized his conundrum; he  
17 expunged the lien. The Court cannot find on this record that the omission was fraudulent; it  
18 appears to be the result of negligence that negatively impacted Defendant. Plaintiff fails to  
19 establish that the omission was made with intent to deceive.

20 He also fails to establish the required reliance on this omission. Plaintiff testified that  
21 he "would not have signed a contract with the existing description of Mechanics Lien." But  
22 he fails to provide evidence that any contractor would do the required work without the  
23 standard language. Here Defendant's error worked to his favor.

24 The Court has considered the evidence presented at trial and finds that Plaintiff has  
25 failed to establish a claim under § 523(a)(2)(A) on this theory.

26 **The allegation of fraud based on the promise of job completion in a**  
27 **workmanlike manner does not render the claims nondischargeable.**

28

1 At trial, Plaintiff testified that he relied on Defendant's contractual guarantee that the  
2 job would be done in a "substantial workmanlike manner." This reliance is reasonable. But  
3 Plaintiff fails to establish that Defendant entered into the Contract with a contrary intent and  
4 made the promise with fraudulent intent.

5 Defendant credibly testified that at the time he entered into the Contract he intended  
6 to complete the project in a workmanlike manner. He testified that when he texted Plaintiff  
7 on the 15th he told Plaintiff that the job was "almost complete" but needed some  
8 adjustments. Defendant testified that he did not, as of the walk-through on October 16,  
9 consider the job complete and that he only asked for a partial payment at that time. He  
10 testified that the adjustments could be done in a day or two. He testified that he was willing  
11 to complete the job but was precluded from doing so due to the restraining order. He  
12 testified that he intended to do a good job.

13 For the purposes of § 523(a)(2)(A), Plaintiff must establish that Defendant lacked the  
14 intent to perform when he contracted "to do a good job." He has failed to do so.

15 On cross-examination, in response to an awkwardly asked question, Defendant  
16 answered "yes."

17 Q. MR. WONG, WHEN CSLB DESCRIBES YOUR  
18 WORKMANSHIP IN THIS WAY, IT REALLY FALSELY  
19 REPRESENTS YOUR WRITTEN SERVICE GUARANTEE, CORRECT?

20 A. YES.

21 At trial, Plaintiff characterized this as an admission that Defendant falsely  
22 represented the guarantee of workman like product in the Contract. The Court is not sure  
23 what the question meant, but it also does not see how a ruling by the CSLB made after the  
24 job was "completed" is evidence of Defendant's knowledge or intent at the time the Contract  
25 was entered into. And as testimony continued, Defendant reaffirmed the necessity that he  
26 "do my job right" and not do fraudulent or bad things to customers. This testimony was  
27 believable.

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Plaintiff has not established that Defendant lacked the intent to complete the job in a substantially workmanlike manner when he signed the Contract. There is no question that the remodel was botched at the time Defendant ceased working on the job. Perhaps, he could have remedied the situation, but Plaintiff had lost faith and actively barred him from doing so through the protective order. On this record, the Court cannot find the required fraudulent intent. Plaintiff failed to establish a § 523(a)(2)(A) claim on this theory.

**Conclusion**

Plaintiff has not established all of the elements of a § 523(a)(2)(A) claim with respect to any of the alleged misrepresentations. Having considered all of the evidence presented at trial and the arguments made, the Court finds for the Defendant on the cause of action under section 523(a)(2)(A).

DATED: May 19, 2021

  
\_\_\_\_\_  
LAURA S. TAYLOR,  
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
325 West "F" Street, San Diego, California 92101-6991

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KYVAN NGUYEN v. ANDY CHAN WA WONG & SHIRLEY TENG WONG, Adv. No. 20-90027-LT  
(In re ANDY CHAN WA WONG & SHIRLEY TENG WONG, Bk. No. 19-06717-LT7)

**CERTIFICATE OF MAILING**

The undersigned, a regularly appointed and qualified employee in the office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to wit:

**MEMORANDUM DECISION**

was enclosed in a sealed envelope bearing the lawful frank of the bankruptcy judges and mailed via first class mail to the party at their respective address listed below:

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Said envelopes containing such document was deposited by me in the City of San Diego, in said District on May 19, 2021.

/s/ Regina A. Fabre  
Regina A. Fabre, Judicial Assistant