

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 21, 2015

Elisabeth A. Shumaker
Clerk of Court

R. WAYNE KLEIN, the court-appointed
receiver of U.S. Ventures LC, Winsome
Investment Trust, and the assets of Robert
J. Andres and Robert L. Holloway,

Plaintiff - Appellee,

v.

ROBERTO E. PENEDO,

Defendant - Appellant.

No. 14-4039
(D.C. No. 2:12-CV-00049-DN)
(D. Utah)

ORDER

Before **GORSUCH, BACHARACH, and PHILLIPS**, Circuit Judges.

Roberto Penedo appeals a \$197,000 judgment against him and in favor of Receiver R. Wayne Klein. After filing this appeal, Penedo filed for Chapter 7 bankruptcy and the appeal was abated in accordance with the Bankruptcy Code's automatic stay provision.

On March 19, 2015, the Receiver provided the court with a notice of discharge in Penedo's bankruptcy case. The court then directed the parties to file written responses addressing the impact of the discharge on the abatement and further proceedings in this appeal. This matter is before us on the Receiver's response to the court's order. Penedo has not responded.

The Receiver concedes that the bankruptcy discharge voids the judgment at issue in this appeal and he is prohibited from collecting on it. *See* 11 U.S.C. § 524(a); *see also In re Walker*, 927 F.2d 1138, 1141 (10th Cir. 1991). Accordingly, the abatement is lifted and this appeal is dismissed as moot.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk