

1 GARMAN TURNER GORDON LLP  
 2 GREGORY E. GARMAN, ESQ.  
 Nevada Bar No. 6665  
 E-mail: ggarman@gtg.legal  
 3 TERESA M. PILATOWICZ, ESQ.  
 Nevada Bar No. 9605  
 E-mail: tpilatowicz@gtg.legal  
 5 7251 Amigo Street, Suite 210  
 Las Vegas, Nevada 89119  
 6 Telephone (725) 777-3000  
 Facsimile (725) 777-3112

7 *Attorneys for Ignatius Piazza, Jennifer Piazza,*  
 8 *VNV Dynasty Trust I, and VNV Dynasty Trust II*

9 **UNITED STATES BANKRUPTCY COURT**  
 10 **FOR THE DISTRICT OF NEVADA**

11 In re: 12 FRONT SIGHT MANAGEMENT LLC, 13 Debtor.	Case No.: 22-11824-ABL Chapter 11
14 FRONT SIGHT MANAGEMENT, LLC, A 15 NEVADA LIMITED LIABILITY COMPANY 16 Plaintiff,	Adv. Case No. 22-01116-ABL
17 v. 18 LAS VEGAS DEVELOPMENT FUND LLC, A 19 NEVADA LIMITED LIABILITY COMPANY, et al., 20 Defendants.	Date: July 25, 2022 Time: 9:30 a.m.

21 **OPPOSITION TO MOTION TO REMAND**

22 Dr. Ignatius Piazza, Jennifer Piazza, VNV Dynasty Trust I, and VNV Dynasty Trust II  
 23 (collectively, the “Piazzas”), by and through their counsel, the law firm of Garman Turner Gordon  
 24 LLP, hereby submit their *Opposition to Motion for Remand* (“Opposition”) in the above-  
 25 referenced adversary proceeding (the “Adversary Proceeding”). The Piazzas hereby request that  
 26 this Court deny the *Motion for Remand* (the “Motion”) [ECF No. 4] filed by Las Vegas  
 27  
 28

1 Development Fund, LLC (“LVDF”).<sup>1</sup> This Opposition is made and based on the following  
 2 memorandum of points and authorities, the *Request for Judicial Notice* (the “RJN”) filed  
 3 concurrently herewith, papers and pleadings on file herein, judicial notice of which is hereby  
 4 respectfully requested, and the argument of counsel entertained by the Court at the time of the  
 5 hearing on the Motion.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION<sup>2</sup>

8 At its core, the Adversary Proceeding seeks to (1) resolve the validity and amount of  
 9 LVDF’s secured claim, which LDVF concedes are claims that are “at the heart of the Bankruptcy  
 10 Case,”<sup>3</sup> and (2) resolve claims that, at their foundation, are allegations of fraudulent transfers (but  
 11 do not increase the total amount due to LVDF on its secured claim and therefore, are duplicative  
 12 of the initial claim). These claims are most likely core but, *at a minimum*, will affect the  
 13 administration of the Bankruptcy Case such that the Court properly has “related to” jurisdiction  
 14 over them. To be sure, this Court’s jurisdiction over the claims in the Adversary Proceeding is not  
 15 disputed;<sup>4</sup> and federal courts should typically exercise properly conferred jurisdiction. *Balbir*  
 16 *Singh Tuli v. Republic of Iraq (In re Tuli)*, 172 F.3d 707, 713 (9th Cir. 1999), *also In re Johnson*  
 17 *346 B.R. 190* (B.A.P. 9th Cir. 2006).

18 Nonetheless, LVDF requests that this Court equitably remand the Adversary Proceeding  
 19 based on a conclusory summary of the fourteen factors set forth in *Neilson v. Neilson (In re Cedar*  
 20 *Funding, Inc.)*, 419 B.R. 807, 820 (B.A.P. 9th Cir. 2009). The lack of meaningful analysis  
 21 highlights the faults in the request. Most glaring, the Motion ignores entirely the fact that the  
 22 claims at issue in the Adversary Proceeding are core claims of the estate and therefore, glosses  
 23

---

24 <sup>1</sup> Pursuant to Local Rule 9014.2, the Pizzas consent to entry of final order(s) or judgment(s) by the bankruptcy judge  
 25 if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders for judgment  
 consistent with Article III of the United States Constitution.

26 <sup>2</sup> Capitalized terms in this section not otherwise defined herein shall have those meanings ascribed to them in this  
 Opposition.

27 <sup>3</sup> See Motion, p. 8, l. 22.

28 <sup>4</sup> See generally, Motion

1 over the reality that any action to equitably remand the Adversary Proceeding will only serve to  
2 duplicate efforts, further delay these proceedings, and otherwise increase the burden on the  
3 Debtor's estate.

4 The Bankruptcy Case is proceeding swiftly with Debtor poised to propose a plan on or  
5 before July 15, 2022. Thus, in the just two months since this Bankruptcy Case has been pending,  
6 Debtor has made immense progress in identifying and proposing to pay allowed claims. It is  
7 critical, however, that the claims by and against Debtor and its principals, including those in the  
8 Adversary Proceeding, remain before this Court because to do anything else means that there will  
9 be parallel proceedings which could result in inconsistent judgments and rulings (as the Debtor  
10 intends on proceeding in this Court with its objection to LVDF's claim and its motion to estimate  
11 LVDF's claims for plan confirmation purposes). Therefore, this Court should deny the Motion.

12 **II.**  
13 **FACTUAL SUMMARY**

14 **A. The Chapter 11 Case and Parties.**

15 1. On May 24, 2022 (the "Petition Date"), Front Sight Management, LLC ("Debtor")  
16 filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, thereby commencing  
17 the above-captioned case (the "Bankruptcy Case") See Case No. BK-S-22-11824-ABL, ECF No.  
18 1.

19 2. Dr. Piazza is Debtor's principal and manager, and a named defendant in the  
20 Adversary Proceeding. Jennifer Piazza is his wife and, apparently on that basis alone, is named as  
21 a defendant in the Adversary Proceeding. VNV Dynasty Trust I and VNV Dynasty Trust II, along  
22 with Dr. Piazza, are Debtor's owners.

23 3. Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, Debtor continues  
24 to operate its business as debtor-in-possession.

25 4. On June 9, 2022 the United States Trustee filed its *Appointment of the Official*  
26 *Committee of Unsecured Creditors*. See ECF Nos. 115-116. The Official Committee of  
27 Unsecured Creditors (the "Committee") is composed of five members.  
28

1           5.       LVDF, the party prosecuting the Motion, is a defendant and counter-claimant in the  
2 Adversary Proceeding. In sum, LVDF and its affiliates (collectively, the “LVDF Parties”)  
3 promised to, but failed to, raise the funds they promised they would for Debtor to complete the  
4 cornerstone of its business, the Front Sight Vacation Club & Resort (vacation residences, a RV  
5 park, a retail adjacent to the vacation club, and a pavilion (the “Project”)), and ultimately forcing  
6 Debtor into this Bankruptcy Case.

7 **B. Background of the Debtor.**

8           6.       Debtor owns a firearms training facility in Pahrump, Nevada. It operated its  
9 business by selling lifetime memberships for the use of its facilities, courses, and ancillary  
10 productions. Debtor had planned a major expansion of its facilities to build the Project. *See* RJN,  
11 Ex. 1.

12           7.       In 2021, Debtor was approached by Robert Dziubla (“Dziubla”) and John Fleming  
13 (“Fleming”), doing business as LVDF, who represented to Debtor that they would be able to obtain  
14 a financing package for Debtor to raise up to \$75 million to bring to market, among other things,  
15 the Project. RJN, Ex. 2, ¶ 11. Dziubla, Fleming, and LVDF stated that all they needed from the  
16 Debtor was \$300,000 in fees needed to secure approval from the United States Customs and  
17 Immigration Service (“USCIS”) and \$100,000 in marketing costs to solicit foreign investors to  
18 participate in an EB-5 immigration investment plan. *Id.* at ¶ 12.

19           8.       Dziubla and Fleming promised Debtor that due to their vast experience raising  
20 foreign investments, their personal connections in China, and their desire to help Debtor complete  
21 its development, that they could raise the necessary funds within a year. *Id.* at ¶ 15.

22           9.       After months of solicitation and what later turned out to be misrepresentations,  
23 Debtor accepted Dziubla’s and Fleming’s proposal. *Id.* at ¶ 22. Debtor paid the requested \$300,000  
24 in fees to secure approval from the USCIS to market the EB-5 investment project. Instead of taking  
25 a year as promised to secure the USCIS approval, it took over two years. *Id.* at ¶¶ 27 30.

26           10.       Debtor paid the aforementioned \$100,000 in marketing fees, as well as another  
27 \$120,000 in marketing fees, but the promised funding never materialized.

28           11.       To sum up the history, Dziubla, Fleming, and LVDF defaulted on their obligation

1 and failed to raise even a fraction of the funds necessary to complete the Project.

2 **C. The State Court Action and Notice of Removal.**

3 12. In 2018, Debtor commenced case no. A-18-781084-B styled *Front Sight, LLC v.*  
4 *LVDF, et al* (the “State Court Action”) against the LVDF Parties. *Id.*, Ex.1. The operative  
5 pleadings in the State Court Action are (1) *Plaintiff’s Second Amended Complaint* (the  
6 “Complaint”) filed by Debtor and (2) *Defendants’ Answer to Plaintiff’s Second Amended*  
7 *Complaint; and First Amended Counterclaim* (the “Counterclaim”) filed by LVDF against Debtor,  
8 the Piazzas, and Michael Meacher, Morales Construction, Inc., All American Concrete & Masonry  
9 Inc., Top Rank Builders, Inc., and Efrain Rene Morales-Moreno (the “Third-Party Defendants”)

10 13. On June 23, 2022, the Debtor filed its *Notice of Removal* (the “Removal Notice”)  
11 of the State Court Action that was pending before the Eighth Judicial District Court in Clark  
12 County, Nevada (the “State Court”).

13 14. In sum, at the time Debtor’s Bankruptcy Case was commenced, the State Court  
14 Action consisted of the following claims:

- 15 a. Affirmative Claims by Debtor against the LVDF Parties: fraud in the inducement,  
16 intentional misrepresentation, civil conspiracy, conversion, breach of contract, breach  
17 of the implied covenant of good faith and fair dealing, intentional interference with  
18 prospective economic advantage, unjust enrichment, negligent misrepresentation, and  
19 negligence;
- 20 b. Claims by LVDF against Debtor: fraud, fraudulent transfers, conversion, civil  
21 conspiracy, judicial foreclosure, and waste
- 22 c. Claims by LVDF against the Piazzas and Third Party Defendants: fraud, fraudulent  
23 transfers, international interference with contractual relationship, conversion, civil  
24 conspiracy, and waste. The Counterclaim also alleges that Debtor is the alter ego of Dr.  
25 Piazza. (Counterclaim, ¶ 16.)

26 *See* RJN, Exs. 2 and 4.

27 15. The claims by LVDF are based, in large part, on allegations that Debtor improperly  
28 used funds and improperly used loan proceeds by transferring assets to its principals and Third-  
Party Defendants. *See id.* However, in its *Findings of Fact, Conclusions of Law, and Order*  
*Denying Defendant Las Vegas Development Fund LLC’s Motion to Dissolve Temporary*  
*Restraining Order and to Appoint a Receiver* (the “January 23, 2020 Order”), the State Court

1 concluded, among other things, “LVDF’s assertion that Front Sight improperly used loan proceeds  
2 is without merit.” *See* RJN, Ex. 3.

3 16. Nonetheless, while titled as different causes of action, LVDF’s claims are all based  
4 on a required finding that funds have been fraudulently transferred by Debtor. *Id.*

5 17. Specifically, the second cause of action in the Counterclaim is for fraudulent  
6 transfer. As to the third, fourth, fifth, sixth, and seventh causes of action in the Counterclaim  
7 (Exhibit 4), LVDF alleges, in relevant part, as follows:

8 a. The Piazzas induced the Debtor “to improperly use funds for the personal benefit of  
9 Counter Defendants Ignatius Piazza, Jennifer Piazza, and VNV Trust Defendants.”  
(Counterclaim, ¶ 92);

10 b. Debtor, Dr. Piazza, and Jennifer Piazza misappropriated the loan proceeds and  
11 spent the monies “for purposes other than that for which it was intended.”  
(Counterclaim, ¶ 98);

12 c. The Piazzas conspired with Debtor , “using Front Sight and VNV Trust Defendants  
13 to achieve their unlawful objective of diverting monies from Front Sight that were  
14 needed to maintain Front Sight’s solvency and its ability to meet its obligations under  
15 the CLA regarding timely completion of the Project and repayment of the loan, for their  
own individual advantage and benefit.” (Counterclaim, ¶ 103).

16 d. “Based on Counter Defendants’ conduct and inequitable result of allowing the  
17 transferred funds to remain in control of Counter Defendants, a constructive trust  
should be placed on all monies transferred from Front Sight to the VNV Trust  
18 Defendants.” (Counterclaim, ¶ 107);

19 e. Debtor has breached the deed of trust in favor of LVDF by, among other things,  
20 “improper use of loan proceeds; . . . diverting Front Sight assets out of Front Sight for  
the benefit of the individual Counter Defendants. . . .”

21 f. Debtor and the Piazzas committed corporate waste by “improperly using funds  
22 earmarked for development of the Property for the personal benefit of Counter  
23 Defendants Ignatius Piazza, Jennifer Piazza, and the VNV Trust Defendants; selling  
unregistered securities which create substantial legal and financial liability to Front  
24 Sight, misappropriating Front Sight’s assets for the personal benefit of Ignatius and  
Jennifer Piazza and other beneficiaries of the VNV Trust Defendants, and selling  
25 various instruments which include rights to Front Sight’s resort property for highly  
reduced rates which further encumbers the Property.” (Counterclaim, ¶ 120).

26 18. Following the Petition Date, in the State Court Action, and notwithstanding the  
27 automatic stay and that the claims in the State Court Action are claims owned by the estate, LVDF  
28 pursued an order striking the answer for the Piazzas for failure to attend a deposition while Debtor

1 was frantically attempting to either prevent the foreclosure of the real property or obtain financing  
2 for a potential chapter 11. LVDF caused the State Court to enter the order (the “Sanction Order”)  
3 on June 22, 2022, nearly a month after the Petition Date.

4 **C. Significant Events in the Bankruptcy Case.**

5 19. On June 16, 2022, the Bankruptcy Court entered an *Order on Debtor’s Emergency*  
6 *Motion for Order Pursuant to 11 U.S.C. §§ 102, 105, and 502(b)(9), Bankruptcy Rules 2002,*  
7 *3003(C)(3), 9007, and 9036, and Local Rules 1007, and 3003: (I) Authorizing the Establishment*  
8 *of Certain Notice Procedures; (II) Establishing Bar Dates and Procedures for Filing Proofs of*  
9 *Claim; and (III) Authorizing the Debtor to Keep its Member List Confidential* (the “Bar Order”)  
10 (Case No. BK-S-22-11824-ABL, ECF No. 82). The Bar Order required, among other things, that  
11 all claimants in the Bankruptcy Case assert and provide evidence supporting their claims by  
12 August 8, 2022.

13 20. On July 1, 2022, the Court entered its *Final Order: (I) Authorizing Debtor to Obtain*  
14 *Post-Petition Financing, (II) Granting Liens and Administrative Expense Claims, (III) Authorizing*  
15 *Debtor’s Use of Cash Collateral, (IV) Modifying the Automatic Stay, and (V) Granting Other*  
16 *Related Relief* (Case No BK-S-22-11824-ABL, ECF No. 228) (the “DIP Order”). As set forth in  
17 the DIP Order, the following milestones apply to Debtor’s Bankruptcy Case:

- 18 a. on or before July 15, 2022, the Debtor shall file its disclosure statement and plan of  
19 a reorganization;
- 20 b. on or before November 29, 2022, the Debtor shall obtain the entry of an order  
21 confirming its plan of reorganization; and
- 22 c. If the plan is not confirmed by the Bankruptcy Court by October 29, 2022, the  
23 Debtor shall begin conducting informal market testing of the Collateral on October  
24 31, 2022.

(the “Milestones”). See DIP Order, ¶ 16.

25 21. LVDF has been an active participant in the Bankruptcy Case since it commenced.  
26 LVDF has made the following filings, among others:

- 27 a. Eleven Application for 2004 exams (ECF Nos. 68, 69, 70, 71, 72, 73, 74, 75, 76,  
28 77, 78)

- 1 b. Two oppositions to Debtor’s *Emergency Motion for Entry of Interim and Final*
- 2 *Orders: (I) Authorizing Debtor to Obtain Post-Petition Financing, (II) Granting*
- 3 *Priming Liens and Administrative Expense Claims, (III) Authorizing the Debtor’s*
- 4 *Use of Cash Collateral, (IV) Modifying the Automatic Stay, and (V) Granting*
- 5 *Related Relief (ECF Nos. 35, 121*
- 6 c. Evidentiary Objection to Supplemental Declaration of Ignatius Piazza (ECF No.
- 7 33)
- 8 d. Objection to Late Filed Declarations Filed in Support of Motion and Reply (ECF
- 9 No. 171)
- 10 e. Motion to Appoint an Examiner (ECF No. 211)

11 **III.**  
12 **LEGAL ARGUMENT AND ANALYSIS**

13 **A. This Court Should Not Remand the Adversary Proceeding Because the Claims**  
14 **Asserted Therein Are Core Claims, or Claims So Inextricably Intertwined with Core**  
15 **Claims, that Must Be Heard by the Bankruptcy Court.**

- 16 1. **Debtor’s Claims in the Adversary Proceeding Are Claims that LVDF**  
17 **Concedes Are “At the Heart of the Bankruptcy Case” and Are Core Claims**  
18 **Under 28 U.S.C. § 157(b)(2)(A), (B), and (O).**

19 Debtor has asserted claims against LVDF for, among others, fraud in the inducement,  
20 intentional misrepresentation, and conversion. Ultimately, the claims seek to resolve whether, after  
21 the LVDF parties promised to raise \$75,000,000 but only advanced \$6,375,000 thereby causing  
22 Debtor to be unable to complete the Project for which it sought funding in the first place, Debtor  
23 is liable to pay any amounts or whether LVDF owes funds to Debtor. This, the validity and amount  
24 of the LVDF Claim, is the focus on Debtor’s claim in the Adversary Proceeding. LVDF concedes  
25 that these claims are “at the heart of Debtor’s Bankruptcy Case.” As a result, the Debtor’s claims  
26 in the Adversary Proceeding are matters that fall directly within the enumerated list of core matters  
27 as set forth in 28 U.S.C. § 157(b)(2) as they are certain to impact Debtor’s assets and liabilities.  
28 Specifically, the Adversary Proceeding falls within the following categories of 28 U.S.C. §  
157(b)(2): (A) matters concerning the administration of the estate; (B) allowance or disallowance  
of claims against the estate...and estimation of claims or interests for purposes of confirming a  
plan under chapter 11...; and (O) other proceeding affecting the liquidation of the assets of the  
estate or the adjustment of the debtor-creditor relationship.



1           2.       **LVDF’s Claims in the Adversary Proceeding are Premised on Purported**  
 2                   **Fraudulent Transfers of Funds Against the Piazzas and Third-Party**  
 3                   **Defendants, Which Are Core Claims Under 28 U.S.C. § 157(b)(2)(H).**

4           LVDF completely ignores that the claims it has asserted in its Counterclaim, including the  
 5 second claim for relief for “fraudulent transfer,” are premised almost entirely on allegations of  
 6 fraudulent transfers. Specifically, in its Counterclaim, although phrased as different causes of  
 7 actions, the allegations are all founded on the purported premise that Debtor improperly used loan  
 8 proceeds by fraudulently transferring assets to the Piazzas or the Third-Party Defendants. *See*  
 9 Counterclaim at ¶¶ 92, 98, 105, 107, 120.

10           Notwithstanding that the State Court has already found that “Defendant LVDF’s assertion  
 11 that Front Sight improperly used loan proceeds is without merit,”<sup>5</sup> the allegations regarding the  
 12 alleged fraudulent transfers and claims for avoidance thereof fall squarely within 28 U.S.C. §  
 13 157(b)(2)(H), which states that proceedings to determine, avoid, or recover fraudulent  
 14 conveyances are core matters. Thus, the claims for relief premised on the alleged fraudulent  
 15 transfers against the Piazzas and Third-Party Defendants are, without question, core proceedings  
 16 that belong to the Debtor.<sup>6</sup>

17       **B. Even if the Claims in the Adversary Proceeding are Not Determined to Be Core, They**  
 18       **Are Certain to Have an Effect on Debtor’s Estate and Therefore Are “Related To”**  
 19       **the Bankruptcy Case and Must Be Heard by the Bankruptcy Court.**

20           In *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988), the Ninth Circuit articulated its test for  
 21 “related to” jurisdiction as “whether the outcome of the proceeding could conceivably have any  
 22 effect on the estate being administered in bankruptcy.” Thus, a proceeding need not necessarily be  
 23 against the debtor or against the debtor’s property. An action is related to a bankruptcy case “if the  
 24 outcome could alter the debtor’s rights, liabilities, options, or freedom of action (either positively  
 25 or negatively) and which in any way impacts upon the handling and administration of the bankrupt

25           <sup>5</sup> *See* RJN, Ex. 3, pp. 7-8

26           <sup>6</sup> Moreover, only a trustee or debtor-in-possession has standing to bring fraudulent transfer claims upon the  
 27 commencement of a bankruptcy case. *See* 11 U.S.C. § 544(b); *see also In re Sunshine Precious Metals, Inc.*, 157 B.R.  
 28 159 (Bankr. D. Idaho 1993); *In re Pac. Gas & Elec. Co.*, 281 B.R. 1, 13 (Bankr. N.D. Cal. 2002) (“Absent court  
 approval, only a trustee or debtor in possession has standing to assert a fraudulent transfer action.”) *subsequently aff’d*  
*sub nom. City & Cnty. of San Francisco v. PG & E Corp.*, 433 F.3d 1115 (9th Cir. 2006) (citations omitted).

1 estate.” *Id.*, at 457 (citations omitted).

2 The Adversary Proceeding is sufficiently “related to” the Bankruptcy Case because in the  
3 Adversary Proceeding, Debtor asserts claims against its purported creditors and the creditors assert  
4 claims against the Debtor, its principals, and former employees and vendors. Thus, the outcome  
5 of the Adversary Proceeding could alter the Debtor’s rights and liabilities, and the outcome will  
6 conceivably, indeed clearly, have a significant impact on the handling and administration of the  
7 Debtor’s bankruptcy estate. In particular, in the Counterclaim, LVDF alleges civil conspiracy  
8 against Debtor, the Piazzas, and the Third-Party Defendants. *See* Counterclaim, Fifth Cause of  
9 Action. Thus, even if not entered directly against Debtor, a civil conspiracy finding certainly  
10 implicates the Debtor. At a minimum, therefore, LVDF’s allegations will potentially impair the  
11 amount of property in the Debtor’s bankruptcy estate available for distribution to its creditors.  
12 Moreover, a potential finding of liability based on civil conspiracy would serve to “alter the  
13 Debtor’s ... liabilities,” and therefore brings the Adversary Proceeding into the Bankruptcy  
14 Court’s “related to” jurisdiction. *See Feitz*, 852 F.2d at 457.

15 **C. The Court Should Not Equitably Remand the Adversary Proceeding Because the**  
16 **Bankruptcy Court Is the Proper Court to Hear the Adversary Proceeding.**

17 1. **The State Court Action Has Been Removed and Therefore, Abstention is**  
18 **Improper.<sup>7</sup>**

19 28 U.S.C. § 1134(c)(2) and (c)(1) provide certain circumstances where a court must abstain  
20 from hearing a matter or may exercise its discretion to do so. Both require the existence of a  
21 parallel proceeding. *See Security Farms v. Int’l Bhd. of Teamsters, Chauffeurs, Warehousemen &*  
22 *Helpers*, 124 F.3d 999, 1009 (9th Cir.1997). The Ninth Circuit has held that Section 1334(c),  
23 covering both mandatory and permissive abstention, does not apply to removed proceedings since  
24 a successful removal effectively extinguishes the parallel proceeding in state court. *See id.* at 1010.  
25 LVDF acknowledges the Ninth Circuit’s precedent in its own Motion. *See* Motion at p. 3, fn. 2.  
26 As the State Court Action has been removed thereby eliminating any parallel proceeding, this

27 \_\_\_\_\_  
28 <sup>7</sup> Despite its acknowledgement that abstention is inapplicable, LVDF references it in footnote 2 of the Motion.  
Therefore, in an abundance of caution, the Piazzas addresses the argument.

1 Court cannot abstain from hearing the Adversary Proceeding.

2 **2. Equitable Remand Is Not Appropriate In This Matter.**

3 Federal courts generally should exercise properly conferred jurisdiction when permitted to  
4 do so. *See In re Tuli*, 172 F.3d at 713 (holding that the bankruptcy court abused its discretion by  
5 abstaining from deciding the adversary proceeding as it failed to provide an explanation for  
6 abstention); *In re Johnson*, 346 B.R. 190 (9th Cir. BAP 2006); *see also In re Chicago, Milwaukee,*  
7 *St. Paul & Pac. R.R. Co.*, 6 F.3d 1184, 1188 (7th Cir. 1993). Thus, a court’s determination not to  
8 hear a particular proceeding that is properly presented before it “is the exception rather than the  
9 rule.” *See In re Tuli*, 172 F.2d at 713.

10 28 U.S.C. § 1452(b) provides that:

11 (b) The court to which such claim or cause of action is removed may remand such  
12 claim or cause of action on any equitable ground. An order entered under this  
13 subsection remanding a claim or cause of action, or a decision to not remand, is not  
14 reviewable by appeal or otherwise by the court of appeals under section 158(d),  
1291, or 1292 of this title or by the Supreme Court of the United States under  
section 1254 of this title.

15 28 U.S.C. § 1452(b). The “any equitable ground” standard is not statutorily defined. Therefore,  
16 case law has imported factors governing discretionary abstention to assist with the remand  
17 decision. *See Sticting Pensioenfond ABP v. Countrywide Financial Corp.*, 447 B.R. 302, 311  
18 (C.D. Cal. 2010). The Ninth Circuit courts consider up to fourteen factors including:

19 (1) the effect or lack thereof on the efficient administration of the estate if the Court  
20 recommends [remand or] abstention; (2) extent to which state law issues  
21 predominate over bankruptcy issues; (3) difficult or unsettled nature of applicable  
22 law; (4) presence of related proceeding commenced in state court or other  
23 nonbankruptcy proceeding; (5) jurisdictional basis, if any, other than § 1334; (6)  
24 degree of relatedness or remoteness of proceeding to main bankruptcy case; (7) the  
25 substance rather than the form of an asserted core proceeding; (8) the feasibility of  
26 severing state law claims from core bankruptcy matters to allow judgments to be  
entered in state court with enforcement left to the bankruptcy court; (9) the burden  
on the bankruptcy court’s docket; (10) the likelihood that the commencement of the  
proceeding in bankruptcy court involves forum shopping by one of the parties; (11)  
the existence of a right to a jury trial; (12) the presence in the proceeding of  
nondebtor parties; (13) comity; and (14) the possibility of prejudice to other parties  
in the action.

1 *Id.*; see also *Hopkins v. Plant Insulation Co.*, 349 B.R. 805, 813 (N.D. Cal. 2006) (“[c]ourts have  
 2 typically identified seven factors governing the decision to remand: (1) the effect of the action on  
 3 the administration of the bankruptcy estate; (2) the extent to which issues of state law predominate;  
 4 (3) the difficulty of applicable state law; (4) comity; (5) the relatedness of the action to the  
 5 bankruptcy case; (6) any jury trial right; and (7) prejudice to the plaintiffs from removal.”). LVDF  
 6 incorrectly alleges that equitable remand is appropriate. A review the factors proves otherwise.

7 a. The effect, or lack thereof, on the efficient administration of the estate if the Court  
 8 recommends remand.

9 As addressed previously herein, the Adversary Proceeding contains core proceedings that  
 10 are property of the Debtor’s estate. First, Debtor asserts claims to determine the validity and  
 11 amount of the LDVF debt which, LVDF acknowledges, “is at the heart of the Bankruptcy Case.”  
 12 Second, LVDF alleges claims that are, or are based on, allegations of fraudulent transfer (which  
 13 claims are property of the Debtor’s estate). Therefore, the Adversary Proceeding is not only core,  
 14 but could have an absolute and direct impact on administration of the estate. Furthermore, if the  
 15 Adversary Proceeding is remanded, the claims do not revert to LVDF (which it appears to assume),  
 16 it just creates another forum in which Debtor is forced to pursue its estate property thereby  
 17 thwarting the Debtor’s efforts to efficiently and economically marshal its assets and address the  
 18 claims against it, thereby negatively impacting recovery.

19 Again, ignoring the core nature of the claims in the Adversary Proceeding, LVDF’s entire  
 20 argument on this factor is that (1) Debtor and its principals are engaged in forum shopping based  
 21 on recent decisions by the State Court and (2) remanding the case to the State Court will result in  
 22 a complete adjudication of the claims by October 2022, and therefore administration of the estate  
 23 will not be impacted. *See* Motion, pp. 8-9. These are both incorrect. First, the “recent decision” to  
 24 which LVDF refers is the Sanction Order, which was entered after the Petition Date and in  
 25 violation of the stay. The Sanction Order is void<sup>8</sup> and therefore, of no consequence. Instead,  
 26 Debtor and the Piazzas have also been the recipients of favorable rulings, including those set forth

27 \_\_\_\_\_  
 28 <sup>8</sup> *See* ECF No. 43.

1 in the January 23, 2020 Order in which the State Court concluded, among other things, “LVDF’s  
2 assertion that Front Sight improperly used loan proceeds is without merit.” *See* RJN, Ex. 3.

3         Second, LVDF’s argument that the State Court will determine the claims by October,  
4 therefore not impacting administration, necessarily acknowledges that at least certain of the claims  
5 must be determined in order for the estate to be administrated. That is a task for the Bankruptcy  
6 Court as for, among other reasons, the claims are estate property. As this Court will be required  
7 to engage in that process, remanding the case would result in duplicative efforts and with no  
8 guarantee of resolution before the required Milestones. Given the core nature of the claims, that  
9 such claims are “at the heart of the Bankruptcy Case,” and the need for efficient and timely  
10 administration given the pace at which this Bankruptcy Case is proceeding as a result of the DIP  
11 Order, this first factor supports denial of remand.

12         b. The extent to which state law issues predominate over bankruptcy issues.

13         The Piazzas do not dispute that the claims in the Adversary Proceeding were commenced  
14 under state law prior to the Bankruptcy Case. However, as referenced above, the claims are core  
15 proceedings and therefore, under the jurisdiction of the Bankruptcy Court. Thus, it is the  
16 bankruptcy issues that predominate over the state law issues. This second factor supports denial  
17 of remand.

18         c. The difficult or unsettled nature of applicable law.

19         The claims asserted in the Adversary Proceeding are not based on difficult or unsettled  
20 law, which LVDF concedes. *See* Motion, p. 9, l. 14. They are standard litigation claims for which  
21 this Court is more than capable of applying the facts to the well-settled law.

22         The Bankruptcy Court is more than capable of managing the claims asserted in this case,  
23 as one of the underlying purposes of the bankruptcy process is “the orderly reconciliation of claims  
24 and the fair distribution of assets in a single, centralized forum.” *In re Manning*, 236 B.R. 14, 24  
25 (B.A.P. 9th Cir. 1999) (injunction imposed by bankruptcy court consistent with just treatment of  
26 all claimholders “when the failure to enjoin local actions will disrupt the orderly reconciliation of  
27 claims and the fair distribution of assets in a single, centralized forum.”) (citing 2 L. King, Collier  
28 on Bankruptcy ¶ 304.05); *In re First Alliance Mortgage Co.*, No. SA CV 01-971 DOC, 2002 WL

1 1303036, at \*3 (C.D. Cal. Jan. 9, 2002) (refusing to order arbitration against nondebtor defendant  
2 where doing so would frustrate the purposes of facilitating either a global settlement or a speedy  
3 adjudication of claims and would further dissipate the estate’s assets, thereby frustrating the goal  
4 of preserving assets of the estate); *In re Lazar*, 200 B.R. at 370 (holding that “the § 1452(a) police  
5 or regulatory power exception to the removability of actions to federal court must be read narrowly,  
6 to permit the effectuation of the bankruptcy policy of determining all issues relating to a  
7 bankruptcy case, insofar as the Constitution permits, in a single forum (the bankruptcy court)”).  
8 Therefore, this third factor supports denial of remand.

9 d. The presence of related proceedings commenced in state court or other nonbankruptcy  
10 proceeding.

11 The State Court Action has been removed and therefore, there is no related proceeding in  
12 the State Court or other non-bankruptcy proceeding. This fourth factor supports denial of remand.

13 e. The jurisdictional basis, if any, other than § 1334

14 The Notice of Removal was filed pursuant to Section 1334. However, the removal was  
15 done on the basis that the Adversary Proceeding contains claims that are core proceedings and that  
16 are property of the estate. Therefore, on that basis, the Court has proper jurisdiction over the  
17 claims. This fifth factor is either neutral or supports denial of remand.

18 f. The degree of relatedness or remoteness of proceeding to main bankruptcy case.

19 Shockingly, while conceding that the matters at issue in the Adversary Proceeding are “at  
20 the heart of the Bankruptcy Case,” LVDF nonetheless concludes in its analysis of this factor that  
21 the dispute “has only limited relatedness to the bankruptcy case.” *Compare* Motion, p. 8, ll .22-  
22 23 and p. 9, ll. 27-28. As set forth at length herein, the claims asserted in the Adversary Proceeding  
23 are directly related to the Bankruptcy Case in that they are claims that establish (1) the validity and  
24 amount of LVDF’s claim and (2) are estate claims for fraudulent transfer. As these are core claims,  
25 they should be decided within the context of the Bankruptcy Case. This sixth factor supports  
26 denial of remand.

27 ...

28

1 g. The substance rather than the form of an asserted core proceeding; and the feasibility  
2 of severing state law claims from core bankruptcy matters to allow judgments to be  
3 entered in state court with enforcement left to the bankruptcy court.

4 LVDF fails to analyze these two factors in its Motion. *See generally*, Motion. This is  
5 because LVDF cannot dispute that the substance of the claims prove that they are core proceedings  
6 regardless of how they have been titled by LVDF. To the extent that there are state law claims  
7 that are not core bankruptcy matters, there is no evidence that such claims could be severed from  
8 the remaining core matters. As such, these seventh and eighth factors support denial of remand.

9 h. The burden on the Bankruptcy Court’s docket.

10 The Piazzas understand that this Court is busy. But, respectfully, so is the State Court.  
11 Thus, on initial glance, this factor is neutral. However, when this factor is viewed with an eye  
12 toward the work that the Bankruptcy Court will be required to complete in this matter regardless  
13 of whether remand is granted, this factor supports denial of remand. As conceded by LVDF, the  
14 validity and amount of LVDF’s secured claim is “at the heart of the Bankruptcy Case” and thus,  
15 as Debtor’s Plan process is proceeding quickly, at a minimum, this Court will be required to  
16 determine the validity and amount of the LVDF claim for Plan purposes, whether in an estimation  
17 proceeding or otherwise. There is no reason to burden two court’s dockets with the same  
18 proceeding.

19 i. The likelihood that the commencement of the proceeding in bankruptcy court involves  
20 forum shopping by one of the parties.

21 Debtor filed its Bankruptcy Case for the purpose of addressing all claims against it,  
22 including a pending foreclosure. As this Court is well aware, the bankruptcy process is a useful  
23 and effective tool for dealing with these issues. Thus, the Bankruptcy Case was filed for a  
24 legitimate and proper purpose and was not the result of forum shopping.

25 LVDF counters this clear good-faith filing by arguing that “Debtor only chose to file  
26 bankruptcy and then remove the case after a number of adverse rulings from the Eighth judicial  
27 District Court.” *See* Motion, p. 10, ll. 23-25. While LVDF does not identify the “number of  
28 adverse rulings,” the Piazzas believe that LVDF is referring to the Sanction Order. This Sanction

1 Order, in addition to being issued in violation of the automatic stay, was entered *nearly a month*  
2 *after* the Bankruptcy Case was filed. These facts show that Debtor’s bankruptcy filing was not  
3 forum shopping but, instead, a legitimate basis for seeking relief under the Bankruptcy Code. This  
4 tenth factor supports denial of remand.

5 j. The existence of a right to a jury trial.

6 While jury trials have been demanded in the State Court Action, “a Seventh Amendment  
7 jury trial right does not mean the bankruptcy court must instantly give up jurisdiction and that the  
8 case must be transferred.” *In re Healthcentral.com*, 504 F.3d 775, 787 (9th Cir. 2007); *Barlow &*  
9 *Peek, Inc. v. Manke Truck Lines, Inc.*, 163 B.R. 177, 179 (D. Nev. 1993) (“The filing of a jury  
10 demand in a non-core proceeding which is related to a bankruptcy case should not result in the  
11 District Judge on a knee jerk basis withdrawing the order of reference.”). Rather, a Bankruptcy  
12 Court judge can and should retain the rights to perform all other judicial acts and conduct all  
13 proceedings short of the entry of a final judgment where, as here, claims (to the extent they are  
14 non-core) are related to a bankruptcy case. *Barlow & Peek Inc.*, 163 B.R. at 179. Finally, where  
15 it would be consistent with the bankruptcy system’s goal to promote judicial economy and  
16 efficiency, a bankruptcy court may retain jurisdiction over a jury trial case until the trial is ready  
17 to proceed. *See In re Healthcentral.com*, 504 F.3d at 788. Therefore, the existence of a jury trial  
18 right is insufficient to support remand. On the other hand, the need for efficiency in the Bankruptcy  
19 Case requires that this Court retain jurisdiction. This eleventh factor is, at worst, neutral.

20 k. Comity.

21 While the State Court Action was initially filed in the State Court, the core nature of the  
22 causes of action invokes this Court's subject matter jurisdiction. Thus, this thirteenth factor is, at  
23 worst, neutral.

24 l. The presence in the proceeding of non-debtor parties and the possibility of prejudice to  
25 the other parties in the action.

26 The Adversary Proceeding does involve non-debtor parties. However, their existence is  
27 not a bar to denying remand. First, at least four of the non-debtor parties (the Piazzas) *do not*  
28 *support* remand. Second, non-Debtor LVDF has actively participated in the Bankruptcy Case from



1 its inception, including using the bankruptcy process to file eleven applications for 2004 exams  
2 thereby actively utilizing the bankruptcy process. LVDF cannot, on the one hand, embrace the  
3 bankruptcy process when it wishes to use it for its benefit and, on the other hand, claim that the  
4 bankruptcy process is improper when it believes it will not be benefited. Finally, while LVDF  
5 argues that this Court does not have jurisdiction over the non-debtor parties, LVDF fails to make  
6 clear how that is so when (1) all non-debtor parties other than the Third-Party Defendants have  
7 now filed pleadings in this Adversary Proceeding and (2) the claims asserted are core. These  
8 twelfth and fourteenth factors do not support remand.

9  
10 **IV.**  
**CONCLUSION**

11 LVDF fails to articulate any valid basis for equitable remand. Instead, the claims asserted  
12 in the Adversary Proceeding are estate property, core, directly affect the assets and liabilities of  
13 Debtor, directly affect the administration of the Bankruptcy Case, and will have a direct impact on  
14 the Bankruptcy Case. A remand of the Adversary Proceeding would only serve to undo the  
15 efficiency and effectiveness that this Court has already accomplished. The Piazzas respectfully  
16 requests that this Court therefore deny the Motion and requests such other and further relief as this  
17 Court deems proper.

18 DATED this 11th day of July, 2022.

GARMAN TURNER GORDON LLP

19  
20 By: /s/ Teresa M. Pilatowicz  
21 GREGORY E. GARMAN, ESQ.  
22 TERESA M. PILATOWICZ, ESQ.  
23 7251 Amigo Street, Suite 210  
24 Las Vegas, Nevada 89119  
25 *Attorneys for Attorneys for Ignatius Piazza,*  
26 *Jennifer Piazza, VNV Dynasty Trust I, and VNV*  
27 *Dynasty Trust II*  
28