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Corporate Suspension No Bar To Creditor's Suit

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Wanke Industrial, Commercial, Residential, Inc. v. AV Builder Corp., 2020 Cal. App. LEXIS 134, involved a judgment creditor's attempt to enforce its judgment against its judgment debtor's debtor. On appeal, the debtor's debtor argued that the plaintiff could not enforce its judgment because it stood in the shoes of its judgment debtor, which was a suspended corporation. The Court of Appeal rejected this argument, reasoning:

"Tax code restrictions serve as a penalty on the suspended corporation to incentivize payment of delinquent taxes. Foreclosing a creditor's suit against a third person based on unilateral action taken by a suspended judgment debtor would not further that goal."

The Court's holding leads to the anomalous result that an assignee of a suspended corporation can not enforce a suspended corporation's claim while a judgment creditor of a suspended corporation can.

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