

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY: THURSDAY**  
**DATE: OCTOBER 1, 2015**  
**CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**COURT'S ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [11-60404](#)-A-13 FRANCIS/HARRIET SCHOTT MOTION TO SELL  
JDR-3 8-27-15 [[61](#)]  
FRANCIS SCHOTT/MV  
JEFFREY ROWE/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Sell Property [Personal Property]

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party and approved as to form and content by the Chapter 13 trustee

**Property:** Timeshare at Hilton Grand Vacations, South Beach, Miami (Type III Vacation Ownership Interest in a 1 Bedroom Unit) more fully described in the motion

**Buyer:** South Beach Vacation Suites Condominium Associates, Inc. through its property manager Hilton Grand Vacations LLC

**Sale Price:** Buyer's assumption of \$4269.00 (the amount of debtors' arrearages owed on the timeshare) plus any additional arrears owed up until close of escrow

**Sale Type:** Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); *see also In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is property of the estate because the debtor's confirmed plan provides that property of the estate will not revert in debtors upon confirmation. The property has been exempted in the amount of \$4000 on Schedule C.

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). A Chapter 13 debtor has the rights and powers given to a trustee under § 363(b). 11 U.S.C. § 1303. Based on the motion and supporting papers, the court finds a proper reorganization purpose for this sale. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

2. [15-12205](#)-A-13 STEVEN/JOANNA GOSSETT MOTION TO CONFIRM PLAN  
RJI-1 8-14-15 [[27](#)]  
STEVEN GOSSETT/MV  
RAYMOND ISLEIB/Atty. for dbt.

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by debtor's counsel using Form EDC 3-081 and signed by the trustee

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

3. [15-12813](#)-A-13 MICHAEL/LAURA LEA DAY MOTION TO DISMISS CASE  
MHM-1 9-1-15 [[31](#)]  
MICHAEL MEYER/MV  
MARK HANNON/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

4. [11-17816](#)-A-13 MARLOWE FOSSEN MOTION TO DISMISS CASE  
MHM-5 8-19-15 [[106](#)]  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.

**Tentative Ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f)(1); written opposition filed by debtor

**Disposition:** Granted

**Order:** Civil minute order

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan.

The trustee asserts that payments are delinquent in the amount of \$3376.73. The debtor's response does not claim that the amount of the delinquency is incorrect. Instead, the debtor contends that the debtor has cured the default. But the attached exhibit purporting to offer evidence of the cure only shows payment of \$1806.99. Payment of this amount leaves uncured a \$1569.74 delinquency.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having considered the motion and the opposition thereto, and having considered the evidence and oral argument at the hearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$1569.74. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

5. [15-12731](#)-A-13 MARK WATERS  
MHM-1  
MICHAEL MEYER/MV  
DAVID JENKINS/Atty. for dbt.

MOTION TO CONVERT CASE FROM  
CHAPTER 13 TO CHAPTER 7  
9-1-15 [[26](#)]

#### **Final Ruling**

**Motion:** Convert Case from Chapter 13 to Chapter 7

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **CAUSE UNDER § 1307(c)**

The trustee moves to convert the case on several grounds. The trustee asserts that the debtor is ineligible to be a debtor under § 109(e) based on a proof of claim filed by the IRS in the amount of \$406,677.47. However, that proof of claim is secured in the amount of \$369,550.49. Schedule E shows \$4856.13 of priority unsecured claims

and Schedule F shows \$140,334.43 of unsecured claims. The unsecured portion of the IRS's claim is \$37,126.98. Even considering as unsecured the second deed of trust held by Greentree in the amount of approximately \$42,104.00 (the first deed of trust exceeds the value of the property as shown on Schedule D), the total unsecured claims based on the schedules and the IRS's claim equal approximately \$224,421.54 and do not exceed the debt limit imposed by § 109(e), which is \$383,175.

However, § 109(e) also states that only an individual with "regular income" may be a debtor under chapter 13 of Title 11. Debtor testified at the § 341 meeting of creditors that he is currently unemployed and receives no income from any source. This constitutes cause for dismissal or conversion.

In addition, the debtor's case should be dismissed or converted under 11 U.S.C. § 1307(c)(11). Debtor testified at the § 341 meeting that he pays child support. He further testified that

### **CONVERSION**

Some of such non-exempt assets, such as fire insurance proceeds, could be subject to a security interest of the lienholders against the property at 162 N. Peach, Clovis, CA. But the insurance proceeds have not been listed on Schedule D, so whether any amounts are encumbered is unclear. Further, the trustee indicates a possible objection to a claim of exemption for a \$14,000 claim for theft of furniture under § 703.140(b)(3). And the insurance claim for burglary may be covered by the catchall claim of exemption on Schedule C, although this is unclear. In summary, the court must accept the trustee's assertion, given the lack of opposition, that there is substantial property in the estate that would yield substantial proceeds for unsecured creditors.

6. [15-12243](#)-A-13 WILLIAM NILMEIER  
WSN-1  
WILLIAM NILMEIER/MV  
WILLIAM COLLIER/Atty. for dbt.  
WITHDRAWN

MOTION TO CONFIRM PLAN  
8-18-15 [[44](#)]

### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

7. [14-13544](#)-A-13 ISELA TERAN  
JES-2  
JAMES SALVEN/MV  
THOMAS GILLIS/Atty. for dbt.

CONTINUED MOTION FOR  
COMPENSATION FOR JAMES E.  
SALVEN, CHAPTER 7 TRUSTEE(S)  
6-10-15 [[58](#)]

### **No tentative ruling**

8. [14-13544](#)-A-13 ISELA TERAN MOTION TO DISMISS CASE  
MHM-2 8-4-15 [[78](#)]  
MICHAEL MEYER/MV  
THOMAS GILLIS/Atty. for dbt.  
MICHAEL MEYER/Atty. for mv.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

9. [14-13544](#)-A-13 ISELA TERAN MOTION TO CONFIRM PLAN  
TOG-2 8-12-15 [[82](#)]  
ISELA TERAN/MV  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by debtor's counsel using Form EDC 3-081 and signed by the trustee

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

10. [15-11845](#)-A-13 ROBERT DOUGLAS MOTION TO CONFIRM PLAN  
JGB-2 8-19-15 [[65](#)]  
ROBERT DOUGLAS/MV  
JAMES BEIRNE/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

11. [14-11059](#)-A-13 JORGE VELAZQUEZ-JARACUARO CONTINUED OBJECTION TO CLAIM OF  
ALG-3 AND ADRIANA OROPEZA INTERNAL REVENUE SERVICE, CLAIM  
JORGE VELAZQUEZ-JARACUARO/MV NUMBER 10  
6-26-15 [[80](#)]  
  
JANINE ESQUIVEL/Atty. for dbt.  
WITHDRAWN

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

12. [15-12669](#)-A-13 BECKY BARNES MOTION TO DISMISS CASE  
MHM-1 9-3-15 [[17](#)]  
MICHAEL MEYER/MV  
PETER BUNTING/Atty. for dbt.

**Tentative ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f)(1); written opposition filed

**Disposition:** Granted

**Order:** Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$263.00.

The debtor's opposition states that the debtor has paid the \$263.00 after the trustee filed the present motion to dismiss. This amount was paid through TFS on September 20, 2015. Further, a portion of the plan payment due on September 25, 2015 has been paid (\$525) but the monthly plan payment is \$963.00. It remains unknown whether the remainder of the September 25, 2015, payment in the amount of \$438 has been made.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having considered the motion, the opposition, responses, and oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$438. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

13. [15-12770](#)-A-13 DAVID SCISSONS AND RENEE MOTION TO VALUE COLLATERAL OF  
PBB-1 AWTREY-RODRIGUEZ SNAP FINANCE, LLC  
DAVID SCISSONS/MV 9-1-15 [[14](#)]  
PETER BUNTING/Atty. for dbt.

**Final Ruling**

**Motion:** Value Collateral [Personal Property; Non-vehicular]

**Disposition:** Denied without prejudice

**Order:** Civil minute order

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). Value is defined as "replacement value" on the date of the petition, which means the "price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* § 506(a)(2). The costs of sale or marketing may not be deducted. *Id.*

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *Id.* The costs of sale or marketing may not be deducted. *Id.*

The ability to value a secured claim for property other than a motor vehicle is limited to debts incurred more than one year prior to the date of the petition. 11 U.S.C. §1325(a) (hanging paragraph).

In this case, the motion requests that the court value collateral consisting of non-vehicular personal property. The court cannot determine whether the hanging paragraph of 11 U.S.C. § 1325(a) applies to the respondent creditor's claim in this case. Thus, the motion does not sufficiently demonstrate an entitlement to the relief requested. See LBR 9014-1(d)(6).



14. [13-16274](#)-A-13 JOSEPH DESROSIERS  
MHM-6  
MICHAEL MEYER/MV  
JERRY LOWE/Atty. for dbt.

MOTION TO DISMISS CASE  
8-19-15 [[132](#)]

### **Final Ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

For the reasons stated in the motion, cause exists under § 1307(c)(1) and (6) to dismiss the case. The debtor has failed to make all payments due under the confirmed plan. Payments are delinquent in the amount of \$8557.48.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Payments are delinquent in the amount of \$8557.48. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

15. [15-13582](#)-A-13 DAVID/SHEREE PIEPER  
TCS-1  
DAVID PIEPER/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
9-16-15 [[8](#)]

**Tentative Ruling**

**Motion:** Extend the Automatic Stay

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

16. [11-13783](#)-A-13 KATHLEEN LA SALLE

CONTINUED OPPOSITION/OBJECTION  
OF NOTICE OF INTENT TO PAY  
ADDITIONAL CLAIM  
6-26-15 [[91](#)]

ADRIAN WILLIAMS/Atty. for dbt.

**No tentative ruling.**

17. [15-12685](#)-A-13 JAMES CULVER  
CH-1  
EXPRESSLOAN.COM, INC./MV  
PETER BUNTING/Atty. for dbt.  
COBY HALAVAIS/Atty. for mv.

CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
8-28-15 [[51](#)]

**Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (2); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 852 Beauregard Lane, Clovis, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor is obligated to make loan payments to the moving party pursuant to a promissory note secured by a second deed of trust on the real property described above. The debtor has defaulted on the loan as both prepetition (15) and postpetition (1) payments are past due.

Section 362(d)(1) authorizes stay relief for cause shown. 11 U.S.C. § 362(d)(1). The court issued an order in this case on a motion to extend the automatic stay (PBB-1). The order required the debtor to remain current on all postpetition payments due to the first or to the second mortgage holder. The order further permitted the second deed of trust holder to seek relief from the stay if the debtor was no longer current. ECF NO. 41. Because the debtor is not current and has missed a postpetition payment on the second deed of trust, cause exists to grant relief under § 362(d)(1) based on the court's stay-extension order.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

18. [11-17092](#)-A-13 KACY JOHNSON  
MHM-5  
MICHAEL MEYER/MV  
JOSEPH BOYD/Atty. for dbt.  
WITHDRAWN

MOTION TO DISMISS CASE  
8-19-15 [[121](#)]

**Final Ruling**

The motion withdrawn, the matter is dropped as moot.

19. [12-11896](#)-A-13 MYRNA GOMEZ  
MHM-3  
MICHAEL MEYER/MV  
SCOTT LYONS/Atty. for dbt.  
WITHDRAWN

MOTION TO DISMISS CASE  
8-19-15 [[65](#)]

### **Final Ruling**

The motion withdrawn, the matter is dropped as moot.

20. [15-13653](#)-A-13 BRADLEY JAURIQUE  
JRL-1  
BRADLEY JAURIQUE/MV  
JERRY LOWE/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
9-23-15 [[8](#)]

### **Tentative Ruling**

**Motion:** Impose the Automatic Stay

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted except as to any creditor without proper notice of the motion

**Order:** Prepared by moving party pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **MERITS**

Upon request of a party in interest, the court may impose the automatic stay where the debtor has had two or more previous bankruptcy cases that were pending within the 1-year period prior to the filing of the current bankruptcy case but were dismissed. See 11 U.S.C. § 362(c)(4)(B). The stay may be imposed "only if the party in interest demonstrates that the filing of the *later case* is in *good faith* as to the creditors to be stayed." *Id.* (emphases added). However, the motion must be filed no later than 30 days after the filing of the later case. *Id.* The statute does not require the hearing to be completed within such 30-day period.

The court finds that 2 or more cases were pending within the one-year period before the filing of the current bankruptcy case but were dismissed. For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of the motion.