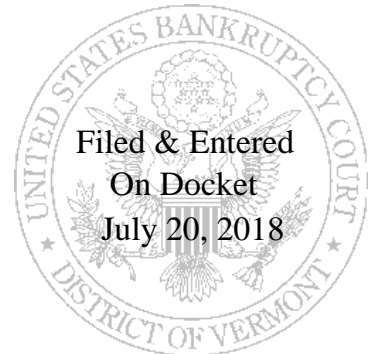


*Formatted for Electronic Distribution*

*For Publication*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**



---

**In re:**

**Robert Goodrich,  
Debtor.**

---

**Chapter 13  
Case # 17-10500**

*Appearances: Rebecca Rice, Esq.  
Cohen & Rice  
Rutland, Vermont  
For the Debtor*

*Heather Z. Cooper, Esq.  
Facey Goss & McPhee, P.C.  
Rutland, Vermont  
For Jennifer Soutar*

*Jan M. Sensenich, Esq.  
Office of the Chapter 13 Trustee  
Norwich, Vermont  
As the Standing Trustee*

**ORDER**

**GRANTING MOTION FOR RECONSIDERATION OF THIS COURT'S INTERPRETATION OF §362(C)(3)(A),  
DENYING MOTION TO ADOPT LIMITED INTERPRETATION OF THAT STATUTE, AND  
DEFERRING DETERMINATION OF WHETHER STAY HAS EXPIRED IN THIS CASE**


Creditor Jennifer Soutar's Motion for Determination of Expiration of Automatic Stay (doc. # 13), in conjunction with her Reply to the Debtor's Opposition (doc. # 18), asked this Court to (i) reconsider the interpretation of § 362(c)(3)(A) it adopted in In re McFeeley, 362 B.R. 121 (Bankr. D. Vt. 2007), (ii) adopt the interpretation of that statute set out in In re Bender, 562 B.R. 578 (Bankr. E.D.N.Y. 2016), and (iii) declare the stay in this case expired, by operation of law, after the case had been pending 30 days. For the reasons set forth in the memorandum of decision of even date, the Court grants in part and denies in part creditor Jennifer Soutar's Motion and, pursuant to the scheduling order in connection with this Motion (doc. # 19 ), grants the Debtor a 30-day period, commencing upon entry of this Order, to exercise his rights under § 362(c)(3)(B).

Based upon the findings and conclusions in the memorandum of decision entered on this date,  
IT IS HEREBY ORDERED as follows:

1. The Court GRANTS the first element of the Movant's Motion, and both reconsiders and changes its interpretation of § 362(c)(3)(A), based upon the Supreme Court guidance, other case law, and scholarly analysis of BAPCA provisions, which have been published during the 11 years since this Court issued the McFeeley decision.
2. The Court DENIES the Movant's request to adopt the Bender Approach\* to § 362(c)(3)(A) because it does not find that interpretation of the Controlling Statute to be consistent with the purpose of the statute, namely, to discourage repeat filings. Instead, the Court adopts the Minority Approach, construing § 362(c)(3)(A) to terminate the stay entirely, i.e., against both the debtor's property and property of the estate, and for all creditors, unless the debtor or other party in interest makes the requisite showing, pursuant to § 362(c)(3)(B), and the Court orders otherwise, within 30 days of the date the debtor filed the second case.
3. The Court DEFERS DECISION on the Movant's request for a declaration as to whether the stay expired in this case by operation of law, under the Controlling Statute, until the earlier of
  - (a) the expiration of the 30-day period which begins running today, as set forth herein; or
  - (b) if the Debtor files a motion and presents his proof, in compliance with § 362(c)(3)(B), within the time frame set forth herein, then at the conclusion of the hearing held pursuant to that motion.

SO ORDERED.

July 20, 2018  
Burlington, Vermont

  
Colleen A. Brown  
United States Bankruptcy Judge

---

\* Defined terms in the memorandum of decision have the same meanings in this order.