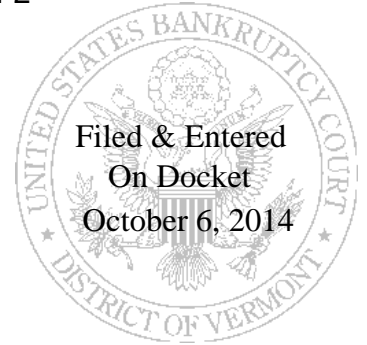


**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**Marjorie W. Johnston,
Debtor.**

**Chapter 13 Case
14-10430**

ORDER
MEMORIALIZING ORAL RULING OVERRULING OBJECTIONS
AND GRANTING DEBTOR'S MOTION TO DISMISS CHAPTER 13 CASE

On August 19, 2014, Marjorie W. Johnston (the "Debtor") filed a motion to voluntarily dismiss her Chapter 13 case (doc. # 17). On August 25, 2014, creditor Wells Fargo Bank, N.A. ("Wells Fargo"), filed an objection to the Debtor's motion (doc. # 18). In its objection, Wells Fargo states that it had no objection to the dismissal of the Debtor's case but instead asserted that the instant filing was not made in good faith and therefore asked that the Court impose a one-year bar to the Debtor's right to file a subsequent bankruptcy petition. On September 16, 2014, the Debtor filed a response to Wells Fargo's objection, in which the Debtor asserted the case had been filed in good faith, the Debtor's circumstances were altered post-petition by factors beyond the Debtor's control, and it was those factors rather than bad faith that compelled her to seek dismissal of her case. Based upon these representations, the Debtor argued a one-year bar is not warranted and would be unduly punitive.

Also on September 29, 2014, creditor Kamberleigh Johnston filed an objection to the Debtor's motion to dismiss (doc. # 22), in which Mr. Johnston requested the Debtor's case remain in Chapter 13, that any dismissal of the case be deferred until certain issues were litigated in the bankruptcy case, and the motion for a filing bar be denied. On October 1, 2014, Wells Fargo filed a response to Mr. Johnston's objection, in which Wells Fargo reiterated its support of a one-year ban based on the Debtor's alleged bad faith. Additionally, Wells Fargo noted that the Debtor's right to voluntarily dismiss their case in chapter 13 is absolute, and as such, Mr. Johnston's request that the case continue in bankruptcy should be overruled.

On October 3, 2014, the Court conducted a hearing on the Debtor's motion to dismiss and the various responses to the motion, and entered an oral ruling. The Court enters the instant order to memorialize that ruling. Based on the record in this case and the representations of the parties, including those presented by the parties in their papers and at the hearing, as well as the Chapter 13 Trustee,

THE COURT FINDS that, notwithstanding the Debtor's past filing history, there is nothing in the record to indicate that this particular case was filed in bad faith or that the motion to dismiss was filed in bad faith. Additionally, THE COURT FINDS that the Debtor has an absolute right to dismiss her chapter 13 case and has an absolute right to dismiss her case immediately. Accordingly, IT IS HEREBY ORDERED that

- 1) Mr. Johnston's objection seeking to delay dismissal or otherwise continue the Debtor's case is overruled;
- 2) Wells Fargo's motion to impose a bar prohibiting the Debtor from filing another bankruptcy case based upon bad faith in this case or her bankruptcy case filing history is denied; and
- 3) the Debtor's motion to dismiss her case is granted.

SO ORDERED.

October 6, 2014
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge