

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF KENTUCKY**

In re:)	
)	
JAMES THEODORE HARRIS and)	CASE NO. 03-36457
CLARA SUSAN HARRIS)	CHAPTER 13
Debtor(s))	
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MEMORANDUM

This matter comes before the Court on the debtors' Motion to Reinstate. The Court will provide a brief factual chronology of this case to put the current motion in context.

1. The debtors filed this Chapter 13 case on September 16, 2003, and the Court confirmed their plan on November 14, 2003. The Confirmation Order called for the debtors to pay the Chapter 13 Trustee approximately \$141 each weeks for 60 months. The confirmation order contained the standard paragraph for plans that pay less than 100%, requiring debtors to submit their federal and state income tax refunds to the Chapter 13 Trustee pursuant to Local Rule 13.
2. On May 24, 2006, the Chapter 13 Trustee filed a motion for the debtors to show cause why their case should not be dismissed due to their failure to make plan payments. At the hearing on the motion, the Trustee withdrew his motion.
3. On August 10, 2007, the Chapter 13 Trustee filed a motion for the debtors to show cause why their case should not be dismissed due to their failure to comply with Local Rule 13 by turning over their tax refunds.
4. On August 14, 2007, the Court granted the Trustee's show cause motion and ordered the debtors to comply with Local Rule within 20 days.
5. On September 11, 2007, the Trustee moved for dismissal alleging that the debtors had not complied with the Court order directing them to comply with Local Rule 13.
6. On September 12, 2007, the Court granted the Chapter 13 Trustee's motion and dismissed the case.

7. Approximately two months later, on November 15, 2007, the debtors moved to reinstate their case.
8. On November 26, 2007, the Court reinstated the debtors' case for purposes of administration, but denied the debtors' request that the automatic stay be reinstated.
9. On January 2, 2008, the Trustee moved for dismissal, again alleging that the debtors failed to comply with Local Rule 13.
10. On January 3, 2008, the Court again dismissed this case.
11. On January 8, 2008, the debtors filed the motion to reinstate currently before the Court. With the motion to reinstate, the debtors also filed a motion to waive Local Rule 13 to allow them to retain their tax refund.

The Court initially notes that this motion to reinstate is almost identical to the one filed on November 15, 2007, even down to its request for "tenderness and mercy" to the attached unsigned affidavit with its Thanksgiving reference. While the Court can appreciate using "form motions," filing successive identical motions, without a significant change in factual circumstances, borders on a violation of Fed. R. Bankr. P. 9011. Moreover, the Court wonders whether the plea for "tenderness and mercy" means the Court is "cold-hearted" should it chose to deny the motion to reinstate. All debtors deserve some degree of compassion and understanding, however, the Court may not will-nilly allow some debtors to disregard the provisions of the confirmation order and "punish" others with dismissal.

Turning to the merits of the motion, the Court is bewildered by the actions of the debtors. The debtors were put on notice as far back as August, 2007, of their non-compliance with Local Rule 13, yet they took no action to seek authority to retain their tax refund until January 8, 2008, after their case had been dismissed twice. Either the debtors or their attorney, or both, unexplainably fail to grasp the gravity of the motions to dismiss filed by the Trustee or simply display a callous indifference to court orders. Either way, the debtors offer no circumstances to compel a different result. The Court shall enter an Order this same date in accordance with the holding of this Memorandum.

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ORDER

Pursuant to the Court's Memorandum entered this same date and incorporated herein by reference, and the Court being otherwise sufficiently advised,

IT IS ORDERED that the debtors' Motion to Reinstate Case is **DENIED**.