

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
GRIDIRON FANTASY SPORTS, LLC,)	CASE NO. 11-83837-JEM
)	
Debtor.)	
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)	
)	
TONY WINDIS, et al.,)	
)	Contested Matter
Movant,)	
)	
v.)	
)	
GRIDIRON FANTASY SPORTS, LLC,)	
S. GREGORY HAYS, Chapter 7 Trustee for)	
the Estate of GridIron Fantasy Sports, LLC,)	
)	
Respondent.)	
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CHAPTER 7 TRUSTEE’S RESPONSE IN OPPOSITION TO MOTION FOR RELIEF

S. Gregory Hays, Chapter 7 Trustee for the estate of GridIron Fantasy Sports, LLC, (the “Trustee”) responds in opposition to the *Motion for Relief from Stay to Allow Commencement and Continuation of Litigation and Liquidation of Claim Against Debtor and Others* [Doc. No. 48] (the “Motion”) filed by Tony Windis, Chad Schroeder, Kevin Kirves, Kim Ra Schleicher, Glen Lowy, and Robert Gallucci (collectively, the “Movants”).

1. On November 29, 2011, GridIron Fantasy Sports, LLC (the “Debtors”) commenced this chapter 7 bankruptcy case.

2. The Trustee is the permanent chapter 7 trustee in the Debtor’s case.

3. Prior to filing bankruptcy, the Debtor operated a large-scale, high-profile fantasy-sports business with offices in Atlanta, Georgia and St. Louis, Missouri. The fantasy-sports competitions held by the Debtor required entrance fees upward of \$1,000 and awarded cash prizes up to several hundred thousands of dollars. Upon information and belief, as a result of the Debtor's insolvency and subsequent bankruptcy filing, a number of prize winners remain unpaid.

4. Movants contend that they are among such unpaid successful contestants and have filed the Motion seeking relief from the automatic stay for the purpose of pursuing litigation in Missouri state court for breach of contract, fraud, negligent misrepresentation, and violation of the Missouri Merchandising Practices Act. *See* Motion, ¶ 4.

5. Courts have adopted a number of tests to determine when stay relief should be granted to allow litigation to proceed. *See e.g., WOW! Factor Desserts, Inc. v. Anderson (In re Johnson)*, 2006 Bankr. LEXIS 3246 (Bankr. N.D. Ga. Oct. 11, 2006). For example, in *In re Video Cassette Games, Inc.*, 108 B.R. 347 (Bankr. N.D. Ga. 1989), Judge Drake adopted the three-part test employed by the Court in *In re Pro Football Weekly, Inc.*, 60 B.R. 824 (N.D. Ill. 1986) (finding that the court should consider whether any great prejudice would result from continuation of the suit, weigh the hardships on the debtor and non-debtor if the stay is maintained, and consider the probability of the non-debtor prevailing). Other courts have followed the twelve-part test set out by the Second Circuit in *Sonnax Industries, Inc. v. Tri Component Products Corp.*, 907 F.2d 1280, 1285 (2d Cir.1990), where the court looked to: (1) whether relief would result in a partial or complete resolution of the issues; (2) lack of any connection with or interference with the bankruptcy case; (3) whether the other proceeding involves the debtor as a fiduciary; (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action; (5) whether the debtor's insurer has assumed full

responsibility for defending it; (6) whether the action primarily involves third parties; (7) whether litigation in another forum would prejudice the interests of other creditors; (8) whether the judgment claim arising from the other action is subject to equitable subordination; (9) whether movant's success in the other proceeding would result in a judicial lien avoidable by the debtor; (10) the interests of judicial economy and the expeditious and economical resolution of litigation; (11) whether the parties are ready for trial in the other proceeding; and (12) the impact of the stay on the parties and the balance of harms.

6. Regardless of which test the Court employs, the Movants must provide some information that would allow the Court to consider whether stay relief is appropriate. In the instant case, the Movants simply have not provided sufficient information to analyze whether the relief that they seek is appropriate; rather, they have merely expressed a desire to sue the Debtor and claimed that cause exists to lift the stay because they would suffer great hardship—though they do not elaborate what sort of hardship—if the stay remains in place.

7. Accordingly, the Trustee opposes the Motion.

WHEREFORE, the Trustee respectfully requests that the Court deny the Motion.

Dated: January 27, 2012.

ARNALL GOLDEN GREGORY, LLP

/s/ Michael F. Holbein

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing *Chapter 7 Trustee's Response in Opposition to Motion for Relief* with the Clerk of Court via the CM/ECF system, which will automatically send a "Notice of Electronic Filing" e-mail notification to the parties receiving such notices. Additionally, I have placed a copy of the forgoing into the US. Mail, postage prepaid and addressed to:

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Dated: January 27, 2012.

/s/ Michael F. Holbein
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