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Northern District of Illinois
Eastern Division

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:	)	Case No. 21 B 9091
	)	
JACK BROWN,	)	Chapter 13
	)	
Debtor.	)	Judge David D. Cleary

ORDER DENYING DEBTOR'S MOTION TO REOPEN (EOD 37) AND GRANTING IN PART AND DENYING IN PART TRUSTEE'S MOTION TO REOPEN THE CASE AND VACATE DISCHARGE ORDER (EOD 51)

This matter comes before the court on the motion of Jack Brown ("Debtor") to reopen his bankruptcy case to amend schedules to disclose a personal injury claim ("Motion to Reopen"). Issac Hernandez and ReThink Electrical, LLC (collectively, "State Court Defendants") filed opposition ("Objection") to the Motion to Reopen. The court entered a briefing schedule allowing Debtor time to file a reply ("Reply"), which he did. Chapter 13 Trustee Glenn Stearns ("Trustee") also filed a reply ("Trustee Reply") in support of the Motion to Reopen. The State Court Defendants requested leave to file a sur-reply ("Sur-Reply"), which the court granted.

The Trustee also filed his own motion to reopen the case and vacate the Debtor's discharge ("Trustee Motion"). State Court Defendants filed a response ("Response") to the Trustee Motion. The court then took all matters under advisement.

Having reviewed the papers submitted and heard the arguments of the parties, the court will deny the Motion to Reopen. The Trustee Motion will be granted to the extent that he seeks to reopen the bankruptcy case and denied to the extent he seeks to vacate Debtor's discharge.

I. BACKGROUND

On July 30, 2021, the Debtor filed for relief under chapter 13 of the Bankruptcy Code. The court confirmed his plan on October 15, 2021. The Debtor completed his plan payments in late 2024, paying a dividend to his general unsecured creditors of approximately 26%. The court granted his discharge on December 26, 2024, and closed the case on February 20, 2025.

In September 2023, while the Debtor's chapter 13 case was pending and he was making payments under his confirmed plan, he was involved in a motor vehicle accident. Debtor hired counsel shortly after the accident to pursue claims on his behalf but did not file amended schedules to disclose any potential claim as an asset in his chapter 13 case. Debtor alleges that he was not aware he needed to disclose the claim.

On September 18, 2025, the Debtor filed a lawsuit against the State Court Defendants in the Circuit Court of DuPage County ("State Court Lawsuit"), seeking over $50,000 in damages allegedly sustained in the September 2023 accident. In December 2025, the State Court Defendants filed a motion for summary judgment asserting that the Debtor lacked standing to pursue the State Court Lawsuit because it was undisclosed in his chapter 13 case. They also argued that judicial estoppel applies because the Debtor took two different positions in two different courts about the existence of the claim.

II. DISCUSSION

Debtor seeks to reopen his chapter 13 case under 11 U.S.C. § 350(b) of the Bankruptcy Code "for the limited purpose of amending schedules B&C and any other relief the court deems proper." Motion to Reopen, p. 2. Section 350(b) states: "A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause."

The plain language of § 350(b) provides that cause to reopen a case includes "administer[ing] assets[.]" The personal injury claim would have been property of the Debtor's estate under 11 U.S.C. § 1306(a). *See Keathley v. Buddy Ayers Constr., Inc.*, 608 U.S. ___, 146

S. Ct. 1532, 1536 (2026) ("for bankruptcy cases proceeding under Chapter 13, the estate also includes property—and therefore claims—that the debtor acquires after the bankruptcy case commences but before it is closed, dismissed, or converted to a case under another chapter"). It remains unadministered property of the estate under 11 U.S.C. § 554(d). Reopening a case to administer property of the estate not previously administered is expressly authorized by 11 U.S.C. § 350(b).

Even if there is an asset available for creditors, however, the Code must provide a method for administering it. Otherwise, reopening would serve no purpose. In this case, there is no available method in chapter 13.

If the case were reopened, in order to administer this asset in chapter 13, the Debtor, the Trustee or the holder of an unsecured claim would have to request court authority to modify the confirmed chapter 13 plan. 11 U.S.C. § 1329(a) authorizes plan modification under the following circumstances:

> (a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to--
>
> > (1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;
> >
> > (2) extend or reduce the time for such payments;
> >
> > (3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan; or
> >
> > (4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance[.]

11 U.S.C. § 1329.

The plain language of § 1329(a) provides that a chapter 13 plan can only be modified "before the completion of payments under such plan." Here, the Debtor completed his payments under the confirmed plan. Therefore, modification of the plan is no longer possible. *See Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253-54 (1992) ("We have stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there.").

The court agrees with the Trustee and the Debtor that the relief requested – reopening the case and disclosing this asset – would serve an important and legitimate purpose. The personal injury claim, an asset of the estate, could benefit the unsecured creditors, who only received 26 cents on the dollar under the confirmed plan. Granting the Motion to Reopen could provide the Trustee with the opportunity to distribute any non-exempt proceeds of the personal injury claim to the Debtor's unsecured creditors. Nevertheless, the court cannot ignore the plain language of § 1329(a).

Debtor makes a different plain language argument. He contends that, because § 350 is applicable in all bankruptcy cases, it "goes against the plain language of Section 350" to find that "once a chapter 13 [case] is closed, it cannot be reopened to administer assets." Reply, p. 3.

This argument is flawed. First, it assumes that plan payments have been completed – and therefore modification is impossible – in all closed chapter 13 cases. According to Table 6 of the Bankruptcy Abuse Prevention and Consumer Protection Act Report dated December 31, 2025, 183,939 chapter 13 cases were terminated during the 12-month period ending December 31, 2025. Of those, only 82,099 were cases in which plans were completed. Therefore, the language in § 350 providing that a case may be reopened to administer an asset could apply to cases closed without completion of plan payments, which constitute more than half of all closed chapter 13 cases. *See* https://www.uscourts.gov/data-news/data-tables/2025/12/31/bankruptcy-abuse-prevention-and-consumer-protection-act-bapcpa/bapcpa-6 (last retrieved August 5, 2026).

Second, the Bankruptcy Code must be interpreted "holistically." Courts interpreting the Code must "do so with an eye to producing a substantive effect that is compatible with the Code." *In re Hertz Corp.*, 120 F.4th 1181, 1204 (3d Cir. 2024), *cert. denied sub nom. Hertz Corp. v. Wells Fargo Bank, N.A.*, 146 S. Ct. 1512 (2026) (quotation omitted). Looking at the Code as a whole, we presume that Congress knew that "to administer assets" was an example of "cause" to reopen a bankruptcy case, even as it limited chapter 13 plan modifications to those cases in which plan payments had not been completed.

Finally, the phrase "to administer assets" is only an enumerated example of the real basis for reopening a case – the existence of "cause." Another statute within the Bankruptcy Code that provides examples of "cause" is 11 U.S.C. § 1112(b)(4). This subsection, like § 350, lists various situations that can constitute "cause" for a court to convert or dismiss a chapter 11 case. One example of "cause," described in § 1112(b)(4)(J), is "failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court[.]"

Yet in cases filed under subchapter V of chapter 11, "a disclosure statement is not required unless the court for cause orders otherwise." *In re Fortuna Auction LLC*, No. 25-10632 (MG), 2025 WL 3726083, at *10 (Bankr. S.D.N.Y. Dec. 19, 2025) (quotation omitted). Does that render § 1112(b)(4)(J) ineffective surplusage? No, because it remains applicable to other chapter 11 cases. It is only an *example* of cause to dismiss, just as "to administer assets" is only an *example* of cause to reopen.

Alternatively, the Trustee contends that in fact completion of plan payments in this case has not occurred, and that his notice of completion of plan payments was filed in error due to Debtor's untimely disclosure of the personal injury claim. Indeed, the Trustee filed a notice of withdrawal of his notice of completion of plan payments. *See* EOD 47. The Trustee asserts that

Debtor's last plan payment has not been made because the Trustee has not received the non-exempt portion of the proceeds of the personal injury claim. Thus, the plan payments have not been completed and § 1329 does not preclude reopening the case.

Although creative, this argument is inconsistent with the plain language of § 1329. Section 1329(a) tells us that a plan modification may be requested "[a]t any time after confirmation of *the plan* but before the completion of payments under *such plan*[.]" 11 U.S.C. § 1329(a) (emphasis added). The court must determine whether payments have been completed under the plan that was confirmed. There is no other plan. In this case, the payments have been completed under the plan that was confirmed.

While the plain language of § 1329 is the basis for the court's ruling, it is useful to remember the policy behind that language. Congress did not want chapter 13 plans to violate the prohibition on involuntary servitude enshrined in the Thirteenth Amendment. *See In re Henry*, 368 B.R. 696, 701 (N.D. Ill. 2007) ("Congress' intent in limiting the time span of a Chapter 13 plan was to protect debtors from a form of involuntary servitude."). One of the methods of accomplishing this goal was to provide that while plans can be modified – even by parties who did not propose them originally – the ability to modify a plan ends once payments are complete.

The State Court Defendants suggest (in so many words) that the Debtor may not have been acting in good faith during his chapter 13 case and, for that reason, the Motion to Reopen should be denied. No party presented evidence on this question, and the court need not reach it. Instead, the Motion to Reopen will be denied for the reasons stated above.

One could argue that denying the Motion to Reopen would encourage debtors to hide post-petition assets that should be disclosed and administered as assets of the estate. While the idea that an asset can be hidden may initially be appealing, the reality is that the State Court

Defendants now rely on this as an argument for dismissing the State Court Lawsuit. Had Debtor timely disclosed the claim on Schedule B and prevailed in the State Court Lawsuit, he would have been entitled to $15,000 in exempt proceeds plus any proceeds remaining after his unsecured claims were paid. Now, he may lose the State Court Lawsuit, and at the same time, his chapter 13 discharge is in jeopardy.

Debtor's discharge is in jeopardy because the Trustee filed his own motion to reopen the case. In the prayer for relief in the Trustee Motion, he "requests that the Court grant relief from the discharge order entered December 26, 2024, vacate said order, and reopen the case."

At this time, the court will take up only the Trustee's request to reopen. The cause that supports the Trustee's request is that he intends to bring a motion to vacate Debtor's discharge pursuant to Fed. R. Civ. P. 60(b), made applicable by Fed. R. Bankr. P. 9024. This constitutes cause to reopen, and the court will grant the Trustee Motion for this purpose.

Finally, Debtor argues that the State Court Defendants do not have standing to object to the Motion to Reopen. They are not creditors of the Debtor, did not file claims, were not listed in the schedules, received no payments under the plan, and made no prior appearance in the bankruptcy case until now. *See In re Boyd*, 618 B.R. 133, 159 (Bankr. D.S.C. 2020) ("to the extent the State Court Defendants rely on their potential judicial estoppel defense to establish standing, the Court agrees with the majority of cases addressing this issue which have found that such a purported pecuniary interest is too remote, too hypothetical, and too speculative to establish standing"), citing *In re Lopez*, 283 B.R. 22 (B.A.P. 9th Cir. 2002) and *In re Kreutzer*, 344 B.R. 634 (N.D. Okla. 2006), *aff'd*, 249 F. App'x 727 (10th Cir. 2007).

There is contrary authority, however, to support a determination that state court defendants have "standing to be involved in the bankruptcy [case] for the limited purpose of opposing a debtor's efforts to use the bankruptcy court to defeat the defendant's trial court motion for summary judgment." Sur-Reply, p. 6. *See In re Malin*, 652 B.R. 828, 832 (Bankr. N.D. Ga. 2023). Indeed, a Bankruptcy Appellate Panel recently suggested in an unpublished memorandum that the Supreme Court "implicitly overruled decisions such as *Giddens v. Kreutzer* … holding that defendants in state court proceedings are not 'parties in interest' who can oppose a motion to reopen." *In re Smidt*, BAP No. CC-24-1071-FGL, 2025 WL 863113, at *6 n.9 (B.A.P. 9th Cir. Mar. 19, 2025), citing *Truck Ins. Exch. v. Kaiser Gypsum Co., Inc.*, 602 U.S. 268 (2024). Consequently, even if this court did not have an independent obligation to determine whether cause exists to grant the Motion to Reopen, the State Court Defendants have standing to raise that issue.

III. CONCLUSION

For all of the reasons stated above, **IT IS ORDERED THAT**:

1. Debtor's Motion to Reopen is **DENIED**;
2. The Trustee Motion is **GRANTED** to the extent Trustee requested reopening for the purpose of filing a motion to vacate discharge pursuant to Fed. R. Bankr. P. 9024; and
3. The Trustee Motion is **DENIED** to the extent Trustee requested that the discharge order be vacated.

ENTERED:

Date: August 7, 2026

DAVID D. CLEARY
United States Bankruptcy Judge