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ORDERED PUBLISHED

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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

6	In re:)	BAP No.	AZ-11-1491-JuBrD
)		
7	ANNA LEAFTY,)	Bk. No.	11-05054-RTB
)		
8	Debtor.)		
)		
9	ANNA LEAFTY,)		
)		
10	Appellant,)		
)		
11	v.)	O P I N I O N	
)		
12	AUSSIE SONORAN CAPITAL, LLC,)		
)		
13	Appellee.)		
)		

Submitted Without Oral Argument
on September 19, 2012*

Filed - October 10, 2012

Appeal from the United States Bankruptcy Court
for the District of Arizona

Honorable Redfield T. Baum, Sr., Bankruptcy Judge, Presiding

Appearances: Appellant Anna Leafly pro se on brief; Clifford
B. Altfeld, Esq., of Altfeld & Battaile P.C., on
brief for Appellee Aussie Sonoran Capital, LLC.

Before: JURY, BRAND**, and DUNN, Bankruptcy Judges.

* Pursuant to Rule 8012, after notice to the parties, the
Motions Panel unanimously determined after examination of the
briefs and record that oral argument was not needed by order
entered on July 3, 2012.

** Hon. Julia W. Brand, Bankruptcy Judge for the Central
District of California, sitting by designation.

1 JURY, Bankruptcy Judge:
2

3 Appellee, Aussie Sonoran Capital, LLC ("ASC") scheduled a
4 trustee's sale of chapter 13¹ debtor's property after its
5 predecessor in interest obtained relief from stay. On the day
6 of the sale, debtor, Anna Leafy, dismissed her previous
7 bankruptcy case and filed the instant case. ASC then moved to
8 dismiss debtor's second bankruptcy case, to confirm the prior
9 order which terminated the automatic stay, or in the
10 alternative, to terminate the stay and/or deny extension of
11 stay.

12 The bankruptcy court granted ASC's motion and entered
13 separate orders granting relief from stay (the "RFS Order") and
14 dismissing debtor's case (the "Dismissal Order") under
15 § 109(g)(2). The RFS Order confirmed, among other things, that
16 the automatic stay was not in effect when the trustee's sale
17 occurred. The bankruptcy court denied debtor's motion for
18 reconsideration under Rule 9024 which incorporates Civil Rule
19 60(b).

20 For the reasons stated below, we conclude that the
21 bankruptcy court's dismissal of debtor's second bankruptcy case
22 was proper because debtor was ineligible to file under
23 § 109(g)(2), and there was no reason to suspend the application
24 of the statute under the circumstances of the case. As a result

25
26 ¹ Unless otherwise indicated, all chapter and section
27 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.
28 "Rule" references are to the Federal Rules of Bankruptcy
Procedure, and "Civil Rule" references are to the Federal Rules
of Civil Procedure.

1 of debtor's ineligibility, the automatic stay was not in effect
2 with respect to ASC's trustee's sale of debtor's real property
3 under § 362(b)(21)(A). Accordingly, we AFFIRM.

4 **I. FACTS**

5 Debtor owned and resided in real property located in
6 Scottsdale, Arizona. On June 7, 2007, debtor executed a
7 promissory note in the amount of \$307,500 with Argent Mortgage
8 Company, LLC ("Argent"). The note was secured by a deed of
9 trust recorded against debtor's property. In August 2008,
10 debtor defaulted on the note.

11 On December 31, 2008, Argent assigned its interest in the
12 note and deed of trust to Citigroup Global Markets Realty Corp.
13 ("Citigroup"). On that same day, a notice of trustee's sale was
14 recorded. The beneficial interest in the note and deed of trust
15 was later transferred from Citigroup to Liquidation Properties,
16 and then from Liquidation Properties to Kondaur Capital
17 Corporation ("Kondaur").

18 On November 6, 2009, debtor filed a chapter 13 petition in
19 the District of Arizona (Bankr. Case No. 09-bk-28586) after
20 communications regarding an alleged modification of the note
21 broke down. On April 2, 2010, Kondaur moved for relief from the
22 automatic stay on debtor's residence. The bankruptcy court
23 granted the motion over debtor's objection by order entered June
24 7, 2010. Just prior to the entry of the order ASC, f/k/a Dos
25 Mates, LLC, acquired the note and deed of trust from Kondaur.

26 Following entry of the order granting relief from stay,
27 debtor commenced a lawsuit in the Arizona Superior Court,
28 Maricopa County, against ASC and others entitled Leafly v. Dos

1 Mates, LLC, et al. (Ariz. Sup. Ct. Case No. CV2010-015409).
2 Debtor applied for and obtained a temporary restraining order
3 without notice. Debtor's lawsuit alleged, among other things,
4 that securitization of her promissory note constituted a fraud,
5 and that an original of her note needed to be attached to her
6 deed of trust. Debtor amended her complaint to add a party or
7 parties. Her first amended complaint was dismissed,² and she
8 later filed a second amended complaint. The defendants moved to
9 dismiss. The Arizona Superior Court granted the various motions
10 to dismiss with prejudice.³

11 Pursuant to a power of sale, ASC noticed a trustee's sale
12 for 10:00 a.m. on March 1, 2011. On the morning of the
13 trustee's sale date, debtor filed a request for dismissal of her
14 bankruptcy, filed a second bankruptcy case at 9:25 a.m. and
15 faxed a copy of the petition to ASC's counsel's office in
16 Tucson. The trustee's sale was held in Phoenix before ASC's
17 counsel received notice of debtor's second bankruptcy.

18 ASC then moved to dismiss debtor's second bankruptcy case,
19 to confirm the prior order terminating the stay, or in the
20 alternative, to terminate the stay and/or deny extension of the
21
22
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25
26 ² The dismissal of the complaint dissolved the temporary
restraining order.

27
28 ³ Debtor appealed the dismissal to the Arizona Court of
Appeals, Division One (Case No. 1-CV-11-366).

1 stay.⁴ ASC's motion was based on §§ 109(g) and 362(c) and (d).⁵
2 At the March 22, 2011 hearing, the bankruptcy court gave debtor
3 additional time to respond and took the matter under advisement.

4 Debtor filed her response on March 25, 2011. Debtor
5 maintained that the foreclosure sale was in violation of the
6 stay. Debtor further argued that ASC had failed to comply with
7 the contractual provisions of the deed of trust and the
8 statutory notice requirements under Arizona law. These
9 violations, debtor argued, demonstrated that the stay should not
10 be terminated. Moreover, debtor contended that she had the
11 right to file an adversary proceeding against ASC to challenge
12 their standing to foreclose.

13 The bankruptcy court granted ASC's motion as it related to
14 the automatic stay by order entered April 6, 2011. The RFS
15 Order (1) confirmed the June 6, 2010, order granting relief from
16 stay in debtor's prior bankruptcy nunc pro tunc; (2) confirmed
17 that the trustee's sale held on March 1, 2011 was not stayed by
18 the filing of the petition in this case; (3) terminated the stay
19 to allow the Arizona Superior Court to enter any and all rulings
20 regarding the property or the debtor in Case No. CV2010-015409;
21 (4) allowed ASC to proceed with any F.E.D. (forcible entry and
22 detainer) action regarding the property; and (5) stated that the

23

24 ⁴ The ASC motion did not request the court to annul the
25 stay, an option provided by § 362(d).

26 ⁵ ASC later filed a notice of supplemental authority citing
27 § 362(b)(20) as additional authority. On appeal, ASC contends
28 that it inadvertently cited § 362(b)(20) instead of
§ 362(b)(21). We agree that § 362(b)(20) does not apply to this
case.

1 order shall apply notwithstanding any additional bankruptcy
2 filing by debtor.

3 On April 8, 2011, the bankruptcy court entered the
4 Dismissal Order which stated that debtor was ineligible for
5 chapter 13 relief pursuant to § 109(g)(2) due to the fact that
6 she had a case pending in the last 180 days and had voluntarily
7 dismissed her case following the filing of a request for relief
8 from the automatic stay.

9 Debtor then moved for relief from the orders under Civil
10 Rule 60(b)(1) and (6). At the May 10, 2011 hearing, the court
11 took the matter under advisement. The bankruptcy court issued
12 findings of fact and conclusions of law regarding debtor's
13 motion by minute entry/order entered May 12, 2011. The court
14 found that § 109(g)(2) was clear that debtor was not eligible
15 due to her prior case and the proceedings therein. The court
16 entered the order denying debtor's motion on August 23, 2011.

17 Other litigation between the parties followed. There was a
18 F.E.D. hearing in the state court resulting in an eviction order
19 (which debtor appealed⁶), a hearing setting a bond to stay the
20 eviction (which debtor failed to post), two additional
21 bankruptcy filings (the last of which was dismissed with
22 prejudice, precluding debtor from filing a bankruptcy case in
23
24

25 ⁶ Ariz. Ct. App. Case No. 1-CV-SV 11-0459. Also, during
26 the F.E.D. proceeding, debtor filed a Special Action appeal,
27 which was denied. Ariz. Ct. App. Case No 1-CA-SA 11-0132.
28 Debtor then filed a Petition for Review to the Arizona Supreme
Court. Ariz. Case No. CV-11-0228-PR. The Arizona Supreme Court
declined review.

1 the District of Arizona for one year⁷), and finally, a second
2 Arizona Superior Court action seeking to enjoin the eviction.
3 Since then, debtor has been removed from the property.

4 Debtor timely appealed the Dismissal Order, the RFS Order,
5 and the denial of her reconsideration motion. Debtor's Notice
6 of Appeal requested a stay pending appeal. However, debtor
7 failed to comply with Rule 8005 by filing a motion in the
8 bankruptcy court. As a result, no stay was issued.

9 II. JURISDICTION

10 The bankruptcy court had jurisdiction over this proceeding
11 under 28 U.S.C. §§ 1334 and 157(b)(2)(A) and (G). We have
12 jurisdiction under 28 U.S.C. § 158.⁸

13
14 ⁷ Bankruptcy Case Nos. 11-bk-17566-RTB and 11-bk-21074-GBN.
15 The bankruptcy court's order dismissing debtor's latest case
16 with prejudice was subject to reconsideration only upon court
17 approval and required debtor to file all schedules and
18 statements and pay the filing fee prior to the court's
19 acceptance of any such case.

20 ⁸ ASC contends that debtor's appeal of the orders has
21 become moot. The mootness doctrine applies when events occur
22 during the pendency of the appeal that make it impossible for
23 the appellate court to grant effective relief. Clear Channel
24 Outdoor, Inc. v. Knupfer (In re PW, LLC), 391 B.R. 25, 33 (9th
25 Cir. BAP 2008). The determining issue is "whether there exists
26 a 'present controversy as to which effective relief can be
27 granted.'" People of Village of Gambell v. Babbitt, 999 F.2d
28 403, 406 (9th Cir. 1993) (quoting NW Env'tl. Def. Ctr. v. Gordon,
849 F.2d 1241, 1244 (9th Cir. 1988)). If no effective relief is
possible, we must dismiss for lack of jurisdiction because we do
not have jurisdiction over moot appeals. I.R.S. v. Pattullo (In
re Pattullo), 271 F.3d 898, 901 (9th Cir. 2001). Here, although
it may be difficult to restore the parties to the status quo
ante, it is not impossible. There is nothing in the record that
shows debtor's property was sold to a third party.

Theoretically, if we reversed, the trustee's sale would be void
and title to the property would revert to debtor. Although she

(continued...)

1 **III. ISSUES**

2 A. Whether the bankruptcy court abused its discretion in
3 dismissing debtor's second bankruptcy case under § 109(g)(2);

4 B. Whether the bankruptcy court abused its discretion in
5 granting the relief set forth in the relief from stay order; and

6 C. Whether the bankruptcy court abused its discretion in
7 denying debtor's motion for reconsideration.

8 **IV. STANDARDS OF REVIEW**

9 Whether the bankruptcy court properly applied § 109(g)(2),
10 is subject to de novo review. Home Sav. of Am., F.A. v. Luna
11 (In re Luna), 122 B.R. 575, 576 (9th Cir. BAP 1991). We also
12 review the bankruptcy court's interpretation of the Bankruptcy
13 Code de novo. Am. Express Bank, FSB v. Smith (In re Smith), 418
14 B.R. 359, 364 (9th Cir. BAP 2009).

15 We review the bankruptcy court's orders dismissing a
16 chapter 13 bankruptcy case, granting relief from stay and
17 denying a motion for reconsideration of an order for abuse of
18 discretion. Brown v. Sobczak (In re Sobczak), 369 B.R. 512, 516
19 (9th Cir. BAP 2007) (dismissal); Kronemyer v. Am. Contractors
20 Indem. Co. (In re Kronemyer), 405 B.R. 915, 919 (9th Cir. BAP
21 2009) (relief from stay); First Ave. W. Bldg., LLC v. James (In
22 re OneCast Media, Inc.), 439 F.3d 558, 561 (9th Cir. 2006)
23 (reconsideration). A bankruptcy court abuses its discretion if
24 it applied the wrong legal standard or its findings were

25
26 ⁸ (...continued)
27 is presently not in possession, she would again own the property
28 and could move back in. Accordingly, we could fashion effective
relief, and the appeal is not moot. We therefore reach the
merits of the orders on appeal.

1 illogical, implausible or without support in the record.
2 TrafficSchool.com, Inc. v. Edriver Inc., 653 F.3d 820, 832 (9th
3 Cir. 2011).

4 V. DISCUSSION

5 This appeal involves the interplay between § 109(g) (2),
6 which governs debtor's eligibility to file a second bankruptcy
7 case within 180 days of her voluntary dismissal of her first
8 case, and § 362(b) (21) (A), which states that certain actions
9 against real property of an ineligible debtor under § 109(g) (2)
10 are not stayed.

11 **A. The Bankruptcy Court Did Not Abuse Its Discretion In** 12 **Dismissing Debtor's Second Case**

13 We first consider debtor's eligibility to file her second
14 case under § 109(g) (2). This section states in relevant part:

15 Notwithstanding any other provision of this section,
16 no individual . . . may be a debtor under this title
17 who has been a debtor in a case pending under this
18 title at any time in the preceding 180 days if-

19 . . .

20 (2) the debtor requested and obtained the voluntary
21 dismissal of the case following the filing of a
22 request for relief from the automatic stay provided by
23 section 362 of this title.

24 The purpose of § 109(g) (2) is to prevent abusive filings.
25 Greenwell v. Carty (In re Carty), 149 B.R. 601, 603 (9th Cir.
26 BAP 1993).

27 If it were not for this section, it would be possible
28 for a debtor to delay foreclosure and deny the secured
creditor the opportunity to have their rights
adjudicated within a reasonable period of time. If
the filing of a subsequent premature petition did not
toll the running of the 180 days, it would be very
simple to render Section 109(g) ineffective and
meaningless by the act of dismissing and refileing
bankruptcy petitions, whenever foreclosure loomed on

1 the horizon.

2 Id. (quoting In re Gregory, 110 B.R. 911, 912 (Bankr. E.D. Mo.
3 1989)).

4 Section 109(g)(2) is not jurisdictional in nature and,
5 therefore, the bankruptcy court has discretion to suspend the
6 application of the statute and not dismiss a debtor's case under
7 certain circumstances. In re Luna, 122 B.R. at 577; see also
8 Mendez v. Salven (In re Mendez), 367 B.R. 109, 116 (9th Cir. BAP
9 2007) (§ 109 eligibility is not jurisdictional). In In re Luna,
10 the lender had not complied with the bankruptcy court's order
11 granting relief from stay that required the lender to provide a
12 payoff and reinstatement notice to the debtor, and the debtor
13 had tendered the amount to reinstate the debt based upon the
14 debtor's calculations. 122 B.R. at 576. When the debtor filed
15 a second case, the Panel found that mechanical application of
16 § 109(g)(2) was inappropriate where doing so would produce an
17 illogical, unjust, or capricious result, or when the benefit of
18 a dismissal would inure to a bad faith creditor. Id. at 577.

19 Debtor relies heavily on In re Luna to demonstrate that the
20 bankruptcy court abused its discretion in dismissing her case in
21 reliance on § 109(g)(2). However, as the bankruptcy court
22 recognized, the narrow, equitable exception to dismissal under
23 § 109(g)(2) in In re Luna has no application in this case.

24 There is nothing in the record that shows dismissal of debtor's
25 second bankruptcy case was illogical or unjust under the
26 circumstances. Debtor had the opportunity to challenge the
27 request for relief from stay with respect to her property in her
28 first bankruptcy case, and she did not prevail. That order

1 became final. On the morning of the scheduled foreclosure sale,
2 debtor voluntarily dismissed her case and filed the instant case
3 to stop the sale. This is exactly the kind of abuse that
4 § 109(g) (2) was designed to address. In re Carty, 149 B.R. at
5 603.

6 Furthermore, the facts of Luna are distinguishable from
7 this case. Here, we do not have a "conditional" order granting
8 relief from stay that was violated. In addition, there is
9 nothing in the record besides debtor's conclusory allegations
10 that demonstrates ASC's bad faith. Debtor alleges that ASC
11 failed to comply with the contractual provisions under the deed
12 of trust and the Arizona statutory notice requirements
13 pertaining to foreclosure sales, but these allegations were the
14 subject of several actions debtor commenced in the Arizona state
15 court which are (or were) pending appeal. Debtor has not
16 presented us with any order by the state court invalidating the
17 sale of her residence on these or any other grounds.

18 Debtor also argues that dismissal of her second case was
19 inappropriate because of a significant change of circumstances.
20 See Mortg. Mart, Inc. v. Rechnitzer (In re Chisum), 847 F.2d
21 597, 600 (9th Cir. 1988) ("a bona fide change in circumstances'
22 can justify a finding that successive bankruptcy filings were
23 proper"); see also Carr v. Sec. Sav. & Loan Ass'n, 130 B.R. 434,
24 436 (D.N.J. 1991) (noting that "debtor was not allowed to
25 commence a second bankruptcy proceeding within 180 days of her
26 last proceeding, absent a bona fide change in circumstances").

27 Debtor appears to rely on Carr to support her change of
28 circumstances argument. However, the issue on appeal in Carr

1 was not about the bankruptcy court's ruling regarding the
2 debtor's changed circumstances. Rather, the issue was whether a
3 secured creditor, who had obtained an order for relief from the
4 automatic stay in a prior bankruptcy proceeding and had
5 repossessed collateral pursuant to that order, was required
6 under § 362(a) to turn over the repossessed collateral
7 immediately to the debtor's estate upon the debtor's subsequent
8 refiling of a bankruptcy petition. The creditor argued that
9 despite the automatic stay upon the second filing, it was
10 entitled to retain possession of the debtor's car pending a
11 showing that debtor had a change of circumstances that justified
12 the filing of the second petition.

13 The district court found no support for this proposition,
14 noting that there were no exceptions from the stay under
15 § 362(b) for successive filings. Therefore, the district court
16 affirmed the bankruptcy court's ruling that the creditor had
17 violated the stay by refusing to turn over the debtor's car
18 before the bankruptcy court determined whether the debtor's
19 second petition was filed in good faith. The holding in Carr
20 has no applicability to this case.

21 The significant change of circumstances, debtor argues, was
22 the 2010 enactment of Ariz. Rev. Stat. § 33-807.01. This
23 section states:

24 For a property with a first deed of trust recorded on
25 or after January 1, 2003 through December 31, 2008, if
26 the borrower occupies the property as the borrower's
27 principal residence, before a trustee may give notice
28 of a trustee's sale for the property pursuant to
§ 33-808, the lender must attempt to contact the
borrower to explore options to avoid foreclosure at
least thirty days before the notice is recorded.

1 The statute further provides that the lender's contact attempt
2 "shall be made in writing and documentation of the notice shall
3 be maintained in the credit file." Ariz. Rev. Stat.
4 § 33-807.01(B).

5 We do not think this change in the law constitutes the kind
6 of change of circumstances that would warrant the discretionary
7 suspension of § 109(g)(2). First, there is no indication that
8 the statute applies to the December 2008 notice of trustee's
9 sale recorded against debtor's property which occurred before
10 the enactment of the statute. Second, the statute does not
11 provide a private cause of action. Wright v. Chase Home Fin.,
12 LLC, No. CV 11-00095-PHX-FJM, 2011 WL 4101513, at *4 (D. Ariz.
13 Sept. 14, 2011). Third, "the kind of 'changed circumstances'
14 required to justify a successive filing must be positive
15 changes, i.e., debtor's objective, financial circumstances and
16 ability to perform the plan proposed must have improved between
17 dismissal of the prior case and commencement of the new case."
18 In re Huerta, 137 B.R. 356, 368 (Bankr. C.D. Cal. 1992)
19 (discussing changed circumstances in the context of good faith
20 and serial filings).

21 Here, there is no evidence in the record that debtor's
22 circumstances had improved. "When the debtor, who has the
23 burden of proof, has not made sufficient showing of 'changed
24 circumstances' the Bankruptcy Court may reasonably infer that
25 the successively filed case or cases were commenced solely to
26 prevent or delay foreclosure." Id. at 369.

27 In sum, the record does not support debtor's arguments for
28 suspending the application of § 109(g)(2). Therefore, we

1 conclude that the bankruptcy did not abuse its discretion when
2 it dismissed debtor's second case.

3
4 **B. The Bankruptcy Court Did Not Abuse Its Discretion In
Granting ASC's RFS Motion**

5 The RFS order grants ASC various forms of relief with
6 respect to the automatic stay. On appeal, debtor challenges
7 some, but not all, of the relief granted.⁹ Her primary argument
8 relates to the bankruptcy court's conclusion that no stay was
9 imposed by the filing of her second petition. However, the RFS
10 Order does not say that. Rather, the RFS order confirmed that
11 the trustee's sale held March 1, 2011, was not stayed by the
12 filing of the petition in this case.

13 Under § 362(b)(21)(A) certain actions against the real
14 property of ineligible debtors under § 109(g) are not stayed.
15 This section was added to the list of exclusions from the
16 automatic stay under § 362(b) with the enactment of the
17 Bankruptcy Abuse Prevention and Consumer Protection Act, Pub. L.
18 No. 109-8, 119 Stat. 23. Section 362(b)(21)(A) provides that
19 the filing of a petition does not operate to stay "any act to
20 enforce any lien against or security interest in real property -
21 . . . if the debtor is ineligible under § 109(g) to be a debtor

22
23 ⁹ Debtor complains that the court erred in confirming that
24 the relief from stay order entered in her first bankruptcy case
25 applied to her second case nunc pro tunc. She also contends
26 that the RFS Order confirming the sale violated Ariz. Rev. Stat.
27 § 33-810(C) which states in relevant part that "[a] sale shall
28 not be complete if the sale as held is contrary to or in
violation of any federal statute in effect because of an unknown
or undisclosed bankruptcy." As discussed below, in light of the
applicability of § 362(b)(21)(A), it is unnecessary to address
these alleged errors on appeal.

1 in a case under this title” As discussed above, debtor
2 was ineligible to be a debtor under § 109(g) (2). Therefore,
3 because § 362(b) (21) (A) applied at the time debtor filed her
4 second petition, as a matter of law, the automatic stay was not
5 in effect with respect to her property. Accordingly, the
6 confirmation in the RFS Order that the trustee’s sale was not
7 stayed was a correct statement of the law.

8 Debtor contends the RFS Order was defective because it
9 incorrectly cited § 362(b) (20) which does not apply to her case.
10 As a result, debtor argues the bankruptcy court did not have
11 authority to grant the relief it purported to grant. We
12 disagree. Even though ASC invoked a different Code section in
13 the bankruptcy court, there is no prejudice to debtor when her
14 arguments on appeal are not substantively altered from those
15 made in the bankruptcy court. Moreover, whether § 362(b) (21) (A)
16 applies to this case is a matter of law, not fact, subject to de
17 novo review. Accordingly, although the RFS Order incorrectly
18 cites § 362(b) (20) rather than § 362(b) (21) (A), we construe the
19 order as being consistent with § 362(b) (21) (A).

20 To avoid the consequences of § 362(b) (21) (A), debtor
21 contends § 362(c) (3) (A) applies to her second case. It does
22 not. This section is a limitation on the operation of the stay
23 in the event of a second filing within a one year window of a
24 previously dismissed case and has nothing to do with debtor’s
25 eligibility to file her second case which was governed by
26 § 109(g) (2). Because the bankruptcy court found debtor was
27 ineligible under this section, a decision which we do not
28 disturb on appeal, the specific exception to the automatic stay

1 under § 362(b)(21)(A) was directly applicable.

2
3 **C. The Bankruptcy Court Did Not Abuse Its Discretion In
Denying Debtor's Motion For Reconsideration**

4 Debtor contends that the same issues on appeal were briefed
5 extensively in the bankruptcy court and, therefore, her motion
6 for relief from the judgment or order should not have been
7 denied. The bankruptcy court did not abuse its discretion in
8 denying her motion for reconsideration because the motion merely
9 repeated arguments that were already presented to and considered
10 by the bankruptcy court.

11 **VI. CONCLUSION**

12 Accordingly, the orders appealed from are in all respects
13 AFFIRMED.