FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: VIKRAM SRINIVASAN, *Debtor*. VIKRAM SRINIVASAN, AKA Vikram Srinivasan, *Appellant*, v. MILESTONE FINANCIAL, LLC, *Appellee*.	No. 26-577 BAP No. 25-1122 OPINION

In re: BEENA SRINIVASAN, *Debtor*. BEENA SRINIVASAN, *Appellant*, v.	No. 26-580 BAP No. 25-1119

MILESTONE FINANCIAL, LLC,

Appellee.

Appeal from the Ninth Circuit
Bankruptcy Appellate Panel
Brand, Gan, and Corbit, Bankruptcy Judges, Presiding

Argued and Submitted August 12, 2026
San Francisco, California

Filed November 4, 2026

Before: Kenneth K. Lee, Salvador Mendoza, Jr., and Ana de Alba, Circuit Judges.

Opinion by Judge de Alba

SUMMARY[*]

Bankruptcy

In appeals from the Bankruptcy Appellate Panel by Chapter 13 debtors Beena and Vikram Srinivasan, the panel: (1) reversed the bankruptcy court's dismissal of debtors' cases for failure to comply with an order and instructed the bankruptcy court instead to grant debtors' requests for

[*] This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

voluntary dismissal; and (2) affirmed the bankruptcy court's imposition of one-year refiling bars on debtors.

The panel reaffirmed court precedent holding that under 11 U.S.C. § 1307(b), a debtor has an absolute statutory right to voluntarily dismiss a Chapter 13 bankruptcy case, even if the debtor filed the Chapter 13 petition in bad faith. The bankruptcy court therefore was required to consider debtors' § 1037(b) requests before other pending matters, including orders requiring the filings of schedules and statements. Accordingly, the bankruptcy court abused its discretion by dismissing for failure to comply with a court order. The panel reversed the bankruptcy court's order and instructed it to enter a new order of dismissal based on debtors' request pursuant to § 1307(b).

The panel held, however, that the bankruptcy court acted within its statutory authority, and did not abuse its discretion, when it imposed the one-year refiling bars for cause under 11 U.S.C. § 105(a). The panel held that 11 U.S.C. § 109(g) does not set the statutory maximum for such a sanction at 180 days, but rather provides a discrete sanction applicable in certain, statutorily prescribed, circumstances. Agreeing with the Third Circuit, the panel held that the bankruptcy court had authority under 11 U.S.C. § 349(a) to impose a refiling bar "for cause," even in the context of debtors' § 1307(b) dismissal. The panel concluded that the bankruptcy court's refiling bar was reasonable, considering debtors' extensive history of multiple filings and repeated failure to fully prosecute. In light of debtors' bad faith conduct, the record supported the bankruptcy court's imposition of a one-year bar and was an appropriate exercise of its discretion.

COUNSEL

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OPINION

DE ALBA, Circuit Judge:

Chapter 13 debtors Beena and Vikram Srinivasan (mother and son) appeal a bankruptcy court's orders imposing a one-year refiling bar following the court's dismissal of their cases for failure to comply with an order. We hold that Appellants had an absolute right to dismiss their Chapter 13 cases under 11 U.S.C. § 1307(b), and the bankruptcy court erred by not honoring that right. We also find, however, that the bankruptcy court acted within its discretion in imposing a one-year refiling bar.

I. Background

A. Factual Background

Debtor – Appellants, Vikram Srinivasan and his mother Beena Srinivasan, have filed for bankruptcy multiple times before the instant case.

Vikram filed bankruptcy petitions in December 2019, December 2020, and August 2021. His first petition was dismissed for failure to comply with an order requiring the

filing of missing documents. Vikram's second bankruptcy petition was dismissed after he failed to appear at the creditors' meeting**.** His third bankruptcy petition was dismissed with a finding of cause and a one-year bar to refiling.

Beena filed bankruptcy petitions in September 2019, November 2019, July 2021, and September 2021. All four of her bankruptcy petitions were dismissed for failure to comply with an order requiring the filing of missing documents.

The facts of the instant petition began when Milestone Financial, LLC ("Milestone") financed a second mortgage in December 2018 on a property Beena and her husband owned. Vikram executed all loan documents as the purported Attorney-in-Fact for his parents. Appellants never made any payments on the mortgage.

A Notice of Default was recorded and a trustee's foreclosure sale of the property was completed. Milestone was the foreclosing beneficiary at the public auction and afterwards attempted to evict Vikram and Beena Srinivasan.

Alameda County's eviction moratorium delayed Milestone's eviction attempt, and resulted in Milestone's commencement of an unlawful detainer action. Vikram and Beena, as occupants of the real property, filed motions to quash service but were denied. The unlawful detainer action was approaching trial when Vikram and Beena each filed Chapter 13 petitions on April 11, 2025, triggering an automatic stay.[1]

[1] Milestone filed a notice of related bankruptcy case with respect to Appellants concurrently filed Chapter 13, Case Nos. 24-40627 and 24-

B. Procedural History

1. Bankruptcy court orders Appellants to provide missing documents

Appellants filed their Chapter 13 bankruptcy petitions incompletely; the petitions were filed without schedules and other required documents.[2] Four days later, the bankruptcy court issued orders requiring Appellants to file the missing documents within fourteen days of the petition date.

On April 25, 2025, the fourteenth day from the petition date, Appellants filed a motion to extend time to file these documents, "claiming good cause due to medical and health related conflicts." The bankruptcy court granted "an extension until May 14, 2025," but expressly warned that "[i]f [Appellants] fail[ed] to comply with this Order, the case[s] may be dismissed without further notice or hearing."

On May 7, 2025, Milestone filed a Motion for Relief from the Automatic Stay to continue with its unlawful detainer action against Appellants. In the same motion, Milestone also requested the bankruptcy court exercise its inherent authority pursuant to 11 U.S.C. § 105(a)[3] to bar Appellants from refiling a bankruptcy petition for two years.

40628. The cases were deemed related and transferred to the Honorable William J. Lafferty.

[2] Appellants represented themselves in pro per.

[3] 11 U.S.C. § 105(a) states that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

Milestone represented that Appellants acted in bad faith to prevent them "from proceeding with the Unlawful Detainer Action," as demonstrated by Appellants' failure to prosecute multiple bankruptcy cases. Because Milestone's motion pertained only to relief from the automatic stay, the bankruptcy court ordered it to file a separate motion for the refiling bar. In the same order, the bankruptcy court granted Milestone's Motion for Relief from Stay.

2. Appellants' motions to voluntarily dismiss the bankruptcy petitions and reconsider grounds of dismissal

As of the extension deadline, May 14, 2025, Appellants had not yet filed the required documents with the bankruptcy court. Instead, on the day of the deadline, they filed applications to voluntarily dismiss their Chapter 13 bankruptcy petitions pursuant to 11 U.S.C. § 1307(b). Section 1307(b) states that "[o]n request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court shall dismiss a case under this chapter. Any waiver of the right to dismiss under this subsection is unenforceable." 11 U.S.C. § 1307(b). In their motions, Appellants indicated the reason for filing the case was now moot since they had renegotiated the terms of their commercial lease and Beena was entering into mediation with her husband regarding the marital estate.[4]

On May 16, 2025, the bankruptcy court dismissed Appellants' cases for failure to comply with the court order granting their motion to extend time. Appellants moved for

[4] The Record shows Vikram's application to voluntarily dismiss his bankruptcy petition was filed on May 14, 2025, and entered at 5:03 PM and Beena's application to voluntarily dismiss her bankruptcy petition was filed on May 14, 2025, and entered at 5:16 PM.

reconsideration of the court's dismissal orders, requesting the grounds of dismissal be changed from failure to comply with the court's order to voluntary dismissal. Appellants did not appear at the scheduled hearings on the motions. On June 10, 2025, the bankruptcy court denied the motions for reconsideration. In doing so, the court recognized Appellants' statutory right to request dismissal but determined that their multiple filings, repeated failures to fully prosecute, and the circumstances surrounding the current filings made it appropriate to dismiss the cases for failure to comply.

3. Refiling bar and Appellants' motion for reconsideration

On June 3, 2025, Milestone moved to bar Appellants from refiling a bankruptcy petition for two years, alleging a pattern of bad faith filings. Appellants opposed the motion, but the bankruptcy court ultimately imposed a one-year bar after finding cause based on Appellants' history of filings and conduct in the instant case.

Appellants moved for reconsideration of the refiling bar orders, arguing that this type of sanction is statutorily capped at 180 days pursuant to 11 U.S.C. § 349(a) and § 109(g). 11 U.S.C. § 349(a) states:

> Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition

> under this title, except as provided in section 109(g) of this title.

11 U.S.C. § 349(a).

Section 109(g) then specifies that:

> Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if-- **(1)** the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or **(2)** the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

11 U.S.C. § 109(g).

Appellants again did not appear at the scheduled hearing on their motions, and the bankruptcy court denied their motions.

Appellants timely appealed the bankruptcy court's orders issuing the refiling bar and denying reconsideration of the reason for dismissal. Neither Appellant exercised the option to have the appeal heard by the District Court. However, Appellants requested "the Panel to certify these related appeals for direct appeal to the Ninth Circuit Court of Appeals." The BAP granted this request and certified the following issue for direct appeal: "[W]hether 11 U.S.C. § 349(a) authorizes the bankruptcy court to impose a bar to

filing a subsequent petition that exceeds the 180 days provided in 11 U.S.C. § 109(g)."

II. Jurisdiction and Standard of Review

We have jurisdiction pursuant to 28 U.S.C. § 158 *et seq*. We review a bankruptcy court's conclusions of law de novo, *see In re Brace*, 979 F.3d 1228, 1232 (9th Cir. 2020), and its factual findings and findings of bad faith for clear error, *id.*; *In re Eisen,* 14 F.3d 469, 470 (9th Cir. 1994).

Additionally, we review a bankruptcy court's decision to dismiss a case for abuse of discretion. *In re Leavitt*, 171 F.3d 1219, 1223 (9th Cir. 1999). In determining whether the bankruptcy court abused its discretion, we first "determine de novo whether the [bankruptcy] court identified the correct legal rule to apply to the relief requested." *United States v. Hinkson*, 585 F.3d 1247, 1262 (9th Cir. 2009) (en banc). If the bankruptcy court identified the correct legal rule, we must then determine whether the bankruptcy court's "application of the correct legal standard [to the facts] was (1) illogical, (2) implausible, or (3) without support in inferences that may be drawn from the facts in the record." *Id.* (citation modified).

III. Discussion

There are two key issues in this case: (1) whether the bankruptcy court erred in not dismissing Appellants' cases pursuant to their requests for voluntary dismissal under 11 U.S.C. § 1307(b), and (2) whether the bankruptcy court acted within its statutory authority in imposing a one-year refiling bar for cause.[5] We hold that while the bankruptcy

[5] Appellee raised a possible mootness issue before this court, as Appellants' refiling bar expired on June 27, 2026. However, a court maintains jurisdiction if the case presents issues that are "capable of

court erred in disregarding Appellants' request for voluntary dismissal, it reasonably imposed a one-year refiling bar in light of Appellants' repeated bad faith conduct.

A. Appellants had an absolute right to dismiss their Chapter 13 cases under 11 U.S.C. § 1307(b).

Appellants contend that the bankruptcy court committed reversible error by not honoring their absolute, statutory right under § 1307(b) to voluntarily dismiss their Chapter 13 bankruptcy cases. Appellants are correct. Because "§ 1307(b) gives a debtor an 'absolute right to dismiss' a Chapter 13 case, even if the debtor filed a Chapter 13 petition in bad faith," the bankruptcy court abused its discretion in sua sponte dismissing Appellants' cases for failure to comply with a court order. *In re Powell*, 119 F.4th 597, 602 (9th Cir. 2024) (quoting *In re Nichols*, 10 F.4th 956, 964 (9th Cir. 2021)).

Section 1307(b) provides that "[o]n request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court *shall* dismiss a case under this chapter." 11 U.S.C. § 1307(b) (emphasis added). In other words, unless the Chapter 13 case has been converted to a different form of bankruptcy petition, the bankruptcy court *must* dismiss the case if the debtor requests voluntary dismissal.

While historically we understood a debtor's right to dismissal under § 1307(b) as "qualified by the authority of a

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repetition, yet evading review." *Weinstein v. Bradford*, 423 U.S. 147, 148 (1975). Because the refiling bar is of a time-limited nature, and because Appellants are reasonably likely to be subject such a bar again, the challenged action in this case satisfies this exception to the mootness doctrine. *Alaska Ctr. For Env't v. U.S. Forest Serv.*, 189 F.3d 851, 854–55 (9th Cir. 1999).

bankruptcy court to deny dismissal on grounds of bad-faith conduct or to prevent an abuse of process," the Supreme Court's intervening decision in *Law v. Siegal*, 571 U.S. 415 (2014), "clearly rejected such reasoning." *Nichols*, 10 F.4th at 960, 963 (citation modified). In *Law*, the Supreme Court made clear that a bankruptcy court cannot use its equitable power under § 105(a) to "override explicit mandates of other sections of the Bankruptcy Code." 571 U.S. at 421 (citation omitted).

In light of *Law*, we recently pronounced that a Chapter 13 debtor, in fact, has an absolute right to dismiss their case, regardless of a bankruptcy court's determination of bad faith. *Nichols*, 10 F.4th at 963–64. Thus, "[c]onsidering only the plain text of § 1307(b), all that is required for voluntary dismissal is (1) a request, (2) by a debtor, (3) who has a Chapter 13 case, (4) that has not been converted to another enumerated chapter under Title 11." *Powell*, 119 F.4th at 602.

Appellants' request for voluntary dismissal meets the plain text requirements under § 1307(b). Milestone does not dispute that (1) Appellants filed a motion requesting dismissal under § 1307(b); (2) Appellants were debtors; (3) Appellants commenced Chapter 13 cases and requested dismissal; and (4) the cases had not otherwise been converted to another bankruptcy chapter. Rather, Milestone contends that "[u]ntil dismissal is entered by the court order, the case remains pending and the debtor remains obligated to comply with all court orders, including orders requiring the filings of schedules and statements." Thus, according to Milestone, Appellants were still required to submit the missing documents from their bankruptcy petitions, as ordered by the bankruptcy court, despite Appellants' request to dismiss. Milestone's assertion is incorrect.

Indeed, our caselaw, consistent with that of our sister circuits, establishes that a bankruptcy court must consider a § 1307(b) dismissal request before other pending matters. Our decision in *Nichols* illustrates this point. In *Nichols*, a creditor moved for conversion to Chapter 7 under § 1307(c) after the debtors' case languished for months because of their failure to prosecute their case. *Nichols*, 10 F.4th at 958. The bankruptcy court found "cause" for conversion under § 1307(c), but postponed conversion for 30 days to give the debtors another opportunity to comply. *Id.* at 959. The debtors did not comply with the extended deadline. *Id.* But before the deadline expired, the debtors moved to voluntarily dismiss their bankruptcy case pursuant to § 1307(b). *Id.* The bankruptcy court denied the debtor's motion to dismiss, reasoning that there was an implied exception to § 1307(b) wherein a debtor who has engaged in bad faith or abuse of the bankruptcy process may not voluntarily dismiss their case. *Id.* We rejected this reasoning and found the bankruptcy court erred in denying the debtor's motion to dismiss based solely on its finding of abuse of the bankruptcy process.

Just as in *Nichols*, the bankruptcy court here delayed consideration of the debtors' requests for dismissal pursuant to § 1307(b) and, instead, dismissed the cases on other grounds. Such actions constitute improper exercise of discretion. By ignoring Appellants' request for voluntary dismissal, the bankruptcy court effectively denied their request, which is inconsistent with the principles pronounced in *Nichols*. As *Nichols* explained, "[§] 1307(b)'s text plainly requires the bankruptcy court to dismiss the case upon the debtor's request. There is no textual indication that the bankruptcy court has any discretion whatsoever." *Id.* at 963. A debtor's right to

dismiss under § 1307(b) is absolute, and the bankruptcy court's choice to prioritize its order over Appellants' dismissal request amounted to an exercise of discretion where none is provided.

Furthermore, the bankruptcy court here engaged in reasoning which *Nichols* expressly disapproves. The bankruptcy court dismissed Appellants' case for failure to comply with a court order and then denied Appellants' motion for reconsideration based on Appellants' history of multiple bankruptcy filings and repeated failures to fully prosecute. In justifying its dismissal for failure to comply—and, implicitly, its rejection of Appellants' voluntary dismissal request—the bankruptcy court relied on a finding of bad faith and abuse of the bankruptcy process. Such reasoning ostensibly deploys the "implied [bad-faith] exception to § 1307(b)" we rejected in *Nichols*. *Id.*

We reaffirm our precedent that a debtor's right to voluntary dismissal under § 1307(b) is absolute and its grant is not subject to the bankruptcy court's discretion. As such, we reverse the bankruptcy court's order dismissing Appellants' cases for failure to comply and instruct the court to enter a new order of dismissal based on Appellants' request pursuant to § 1307(b).

B. The bankruptcy court acted within its statutory authority when it imposed the one-year refiling bars for cause.

Appellants argue the bankruptcy court did not have authority to impose a one-year refiling bar because 11 U.S.C. § 109(g) sets the statutory maximum for such a sanction at 180-days. In support of their argument, Appellants return to the Supreme Court's intervening decision in *Law*. Per *Law*, Appellants argue, bankruptcy courts cannot use their

authority under § 105(a) "to override explicit mandates of other sections of the Bankruptcy Code," including § 109(g). Alternatively, Appellants argue that even if the bankruptcy court identified the correct legal standard, it abused its discretion in how it formulated the refiling bar.

Appellants' arguments are unavailing. Appellants misinterpret § 109(g) as a ceiling on the amount of time for which bankruptcy courts may impose a refiling bar. Rather, § 109(g) provides a discrete sanction applicable in certain, statutorily prescribed, circumstances. Furthermore, the bankruptcy court's refiling bar here was reasonable considering Appellants' extensive history of multiple filings and repeat failures to fully prosecute. Thus, the bankruptcy court did not abuse its discretion in imposing the one-year refiling bar.

1. 11 U.S.C. § 349(a) authorizes refiling bars exceeding 180 days.

Appellants argue that § 109(g),[6] as triggered by § 349(a),[7] limits the bankruptcy court's authority to impose

[6] "Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if (1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or (2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title." 11 U.S.C. § 109(g).

[7] "Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the

refiling bars. Their interpretation is inconsistent with majority of the caselaw and would narrow the bankruptcy court's ability to police bad faith conduct.

We have long understood 11 U.S.C. § 349(a) as establishing a default rule that a bankruptcy court's dismissal is without prejudice, unless a bankruptcy court finds cause to order otherwise. *See Leavitt,* 171 F.3d at 1223–24 (citing 11 U.S.C. § 349(a)). Put differently, § 349(a) permits bankruptcy courts to dismiss a case with prejudice but only "for cause." *Id.* In defining what constitutes "for cause," we have also long recognized that § 349(a) permits dismissal with prejudice where a debtor has acted in bad faith. *See id.* at 1223–24.

On appeal, Appellants call for a fundamentally different interpretation of § 349(a) than what we have historically deployed. Appellants argue that, under § 349(a), a dismissal is presumed to be without prejudice "except as provided in section 109(g) of this title." Under Appellants' interpretation of § 349(a), a bankruptcy court cannot dismiss a case with prejudice when it finds "cause"; rather, the court is limited to the exceptions provided in § 109(g). Applying their interpretation of these bankruptcy code provisions, Appellants contend the bankruptcy court's finding of bad faith could not support the imposition of a refiling bar any longer than 180-days.[8]

filing of a subsequent petition under this title, except as provided in section 109(g) of this title." 11 U.S.C. § 349(a).

[8] Appellants concede their request for voluntary dismissal triggered the 180-day bar pursuant to § 109(g). Their argument is that the bankruptcy court could, at a maximum, impose an 180-day refiling bar.

Admittedly, the text of § 349(a) is not the picture of clarity. But Appellants' proposed interpretation is at odds with the majority of our sister circuit courts. Our sister circuits have recognized that § 109(g) does not constrain the bankruptcy court's authority under § 349(a) to impose refiling bars longer than 180 days for cause. *See, e.g.*, *In re Tomlin,* 105 F.3d 933, 939–40 (4th Cir. 1997); *In re Casse*, 198 F.3d 327, 337–41 (2d Cir. 1999) ("The Fourth Circuit's analysis of the statutory scheme makes manifest its view that the Code permits longer prohibitions against future filings than does § 109(g)."). While our court has never explicitly adopted either the majority or minority approach, the Ninth Circuit Bankruptcy Appeal Panel has previously applied the majority rule. *Franco v. U.S. Tr. (In re Franco*), BAP No. CC-15-1281-KiTaL (B.A.P. 9th Cir. Jun 02, 2016); *see In re Bayati,* 2016 Bankr. LEXIS 3637 (9th Cir. BAP Oct. 5, 2016) ("Section 349(a) establishes a general rule that dismissal of a case is without prejudice but expressly grants a bankruptcy court the authority to dismiss the case with prejudice — i.e., a permanent bar to refiling . . . . Inherent in this authority is the power to impose a bar of shorter duration." (citation omitted)).

Appellants contend that the Supreme Court's decision in *Law* intervened in this circuit split. Again, the Supreme Court in *Law* held that § 105(a) "does not allow the bankruptcy court to override explicit mandates of other sections of the Bankruptcy Code." 571 U.S. at 421. *Law* emphasized that the "[c]ourts' inherent sanctioning powers are [] subordinate to valid statutory directives and prohibitions." *Id.* Appellants argue that "[t]he Bankruptcy Code speaks directly here: section 109(g) alone sets the predicates and duration of any refiling bar. A court cannot

add a second, longer refiling track through § 349(a) or under its inherent equitable powers."

We disagree. The Third Circuit's opinion in *In re Ross*, 858 F.3d 779 (3rd Cir. 2017), is instructive for how to understand what impact, if any, *Law* had on how we interpret § 349(a). In *Ross*, a mortgagee moved to dismiss a debtor's Chapter 13 case as a "bad faith" filing. *Id.* at 782. Just as in this case, the debtor requested his case be dismissed pursuant to § 1307(b). *Id.* After the debtor failed to appear at the hearing on the motion to dismiss, the bankruptcy court dismissed the case with prejudice and imposed a refiling bar. *Id.* The Third Circuit rejected the debtor's argument that bankruptcy courts may not impose a filing injunction after a debtor seeks voluntary dismissal pursuant to § 1307(b). *Id.* at 783. Critically, the Third Circuit held that a bankruptcy court still has the authority after *Law* "to issue a filing injunction even in the context of approving a debtor's § 1307(b) voluntary dismissal because nothing in the Bankruptcy Code's express terms says otherwise." *Id.* at 781.

Particularly relevant here, the Third Circuit rejected the debtor's argument that issuing a refiling bar after a § 1307(b) voluntary dismissal undermines the purpose of other Bankruptcy Code provisions "address[ing] the problem of repeat-filers and bad-faith debtors," including "§ 109(g), which effectively imposes a 180-day filing injunction on a certain subset of repeat-filers who act in bad faith." *Id.* at 784. The Third Circuit reasoned that "whether or not the Bankruptcy Court's filing-injunction order undermines these sections' *purposes* is not the question; all that matters is the 'express' and 'explicit' terms of the Bankruptcy Code." *Id.* (emphasis in original). Unlike the expressly conflicting statutory provisions at issue in *Law*, the Third Circuit found

that "'nothing in the text' of § 1307(b) [] prohibits the entry of a filing injunction alongside a § 1307(b) dismissal order, and the purposes behind the other cited statutory provisions [like § 109(g)] are irrelevant." *Id.* at 785.

We adopt a similar approach here and hold that the bankruptcy court had authority under § 349(a) to impose a refiling bar "for cause," even in the context of Appellants' § 1307(b) voluntary dismissal. *Law* held that a bankruptcy court may not use its equitable powers to contravene *express* provisions of the Bankruptcy Code. *Law* does not prohibit bankruptcy courts from acting where the Code grants discretion or is silent. Indeed, the placement of the "for clause" language at the beginning of § 349(a)—rather than at the end of the first clause—indicates that it applies to the entirety of the provision.

The statutory history and scheme further support this interpretation of § 349(a). Section § 109(g) "was added to the Bankruptcy Code in 1984 to address the precise abuse of the bankruptcy system at issue here—the filing of meritless petitions in rapid succession to improperly obtain the benefit of the Bankruptcy Code's automatic stay provisions as a means of avoiding foreclosure under a mortgage or other security interest." *Tomlin*, 105 F.3d at 937. In addition to the adoption of § 109(g), the 1984 amendments also revised the language of § 349. *Id.* Section 349 was amended by "adding the language that appears after the semi-colon in the present text of § 349(a), namely, 'nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.'" *Casse*, 198 F.3d at 337. While commentators have suggested that "the language of 349(a) limits the prejudicial impact of a dismissal to that provided in new § 109(g)," the Fourth and Second

Circuits—along with several bankruptcy courts and district courts—have rejected that argument. *Tomlin*, 105 F.3d at 938 (citation modified); *see id.* (collecting bankruptcy court and district court decisions).

Appellants counter that the "for cause" does not modify § 349(a) following the semicolon. Such argument was specifically rejected by the Fourth Circuit, which reasoned that "[w]hen one considers that Congress intended § 109(g) to give bankruptcy courts an additional weapon for use against serial filers, it is perverse to construe the section as striking from the courts' hands other sections of the Code which may remedy the same problem." *Casse*, 198 F.3d at 340–41. As the Fourth Circuit observed, "these several provisions complement each other in arming the bankruptcy courts with a variety of weapons for use in controlling serial filers, a species not likely to become endangered in the foreseeable future." *Id.* at 341.

In sum, we hold that § 109(g) does not limit the grounds for which a bankruptcy court may impose a refiling bar nor does it limit the duration of the refiling bar to 180 days. The bankruptcy court, thus, identified the correct legal rule. *Hinkson*, 585 F.3d at 1262.

2. The bankruptcy court reasonably imposed a one-year refiling bar considering Appellants' history in bankruptcy court.

Appellants alternatively argue that even if the bankruptcy court identified the correct legal standard, it abused its discretion in how it formulated the refiling bar. Specifically, Appellants challenge the bankruptcy court's justification for the duration of the refiling bar and the date the refiling bar commenced. In light of Appellants' history of particularly egregious conduct in bankruptcy court—

including their repeat failure to prosecute bankruptcy petitions—the bankruptcy court did not abuse its discretion in imposing a one-year refiling bar.

Bad faith may serve as a "cause" for dismissal of a Chapter 13 case with prejudice under § 349(a). *Leavitt*, 171 F.3d at 1224. When determining whether a debtor's conduct rises to the level of bad faith justifying a dismissal with prejudice, the bankruptcy court applies a "totality of the circumstances" test. *Leavitt*, 171 F.3d at 1224 (citing *In re Eisen*, 14 F.3d 469, 470 (9th Cir. 1994)). The bankruptcy court considers: (1) whether the debtor misrepresented facts, unfairly manipulated the Bankruptcy Code, or otherwise filed their petition in an inequitable manner; (2) the debtor's history of filings and dismissals; (3) whether the debtor only intended to defeat state court litigation; and (4) whether egregious behavior is present. *See id.* (compiling bankruptcy cases to determine relevant factors). "A finding of bad faith does not require fraudulent intent by the debtor." *Id.*

Here, the bankruptcy court considered Appellants' multiple bankruptcy filings, repeated failure to fully prosecute those petitions, and their conduct in the instant case, such as failing to submit necessary documents and failing to appear at hearings. One of the Appellants, though the record is unclear which one, has previously had a 180-day bar against them. Despite their significant history in bankruptcy court, both Appellants failed to appear at the hearing on the motion to bar them from filing. The Court infers that a lack of schedule filings and other documentation in their past bankruptcy cases is due to repeated bad faith filings. Moreover, the Appellants have been living rent/mortgage free in their home for multiple years during the pendency of these proceedings, and they only filed bankruptcy cases—the twelfth and thirteenth cases filed by

the Srinivasan family—when the Appellee attempted to evict them from the home by foreclosure or other action. Based on this record, the bankruptcy court reasonably calibrated the refiling bar to Appellants' specific history in bankruptcy court.

Regarding the commencement date, Appellants fail to identify any applicable statute or caselaw supporting the proposition that the bankruptcy court was required to backdate the refiling bar to commence on the date of Appellants' voluntary dismissal. Rather, Appellants cite to § 109(g) and its language defining the dismissal as the operative event triggering the refiling bar. But, as previously explained, the bankruptcy court was not confined to the sanctions prescribed in § 109(g). Thus, what § 109(g) defines as the operative event is irrelevant for determining the appropriate commencement date for the refiling bar.

Finally, we do not find that the bankruptcy court's error in determining the grounds for dismissal impacted its refiling bar calculation. The bankruptcy court could have "just as easily attached its filing injunction to [Appellants'] requested dismissal order." *See Ross*, 858 F.3d at 784; *see also In re Franklin*, 802 F.2d 324, 326–27 (9th Cir. 1986) (holding that bankruptcy court retained jurisdiction to construe its own orders after dismissal of the underlying bankruptcy proceeding). In light of Appellants' bad faith conduct, the record supported the bankruptcy court's imposition of a one-year bar and was an appropriate exercise of its discretion.

IV. Conclusion

For the foregoing reasons, we **REVERSE** the bankruptcy court's dismissal order and instruct the court to enter an order dismissing the case pursuant to Appellants'

§ 1307(b) request. However, we **AFFIRM** the bankruptcy court's imposition of a one-year refiling bar.