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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of:
SANJAY OM TEWARI, Main Case No.
Debtor. 22-10465-mg

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United States Bankruptcy Court
One Bowling Green
New York, New York

September 13, 2023
2:11 PM

B E F O R E:
HON. MARTIN GLENN
U.S. BANKRUPTCY JUDGE
ECRO: JONATHAN

1
2 IN COURTROOM HEARING RE: OSC why this case should not be
3 dismissed or alternatively converted to a case under Chapter 7
4 because the Debtor has not established a reasonable likelihood
5 of rehabilitation in a reasonable period of time. (Doc nos. 77,
6 79, 82, 83, 84)

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ALSO PRESENT:
SANJAY OM TEWARI
GEETA KOHLI

1 PROCEEDINGS

2 THE CLERK: All rise.

3 THE COURT: Please be seated. All right. Good
4 afternoon. We're here in Sanjay Om Tewari, 22-10465. We're
5 here on the Court's order to show cause why this case should
6 not be dismissed or alternatively converted to a case under
7 Chapter 7.

8 The order to show cause was entered as ECF docket
9 number 77. I won't read it verbatim, but it required that any
10 objections or support for the order to show cause had to be
11 filed by 5 p.m. September 6th. Any replies by September 12th,
12 yesterday, at noon.

13 The only thing that I found on the docket were two
14 declarations submitted by Ms. Kohli, by her lawyers, ECF 82 and
15 83.

16 And Mr. Fischhoff.

17 MR. FISCHOFF: Yes, Judge.

18 THE COURT: You didn't file any response to the order
19 to show cause.

20 MR. FISCHOFF: No, because this balk (ph.) the Code.
21 I looked. It didn't have any provision that I could rely on to
22 oppose the Court's order to show cause for dismissal. I did
23 have another plan, but in talking to my client, that request is
24 not going to work. And that was that perhaps the Court had
25 once said they would force us all in a room and negotiate.

1 But Mr. Herman and I have been talking since the last
2 conference. And I think we made some progress on money issues.
3 But the issue that we can't make progress on, and no matter how
4 long you lock us in a room together, we're not going to
5 progress, is the custody and parenting issues.

6 And so I'm prepared today for the debtor to consent to
7 the dismissal, except Mr. Tewari, and I'm not sure I should be
8 saying this, but Mr. Tewari told me he wanted the case
9 converted. And I told him, as his lawyer, I haven't really
10 examined that issue, and I'm not in a position to recommend
11 that. I said if a Chapter 7 makes sense, we can always file it
12 at a later date. But I haven't talked to him about the
13 implications that I think -- I think we would need to have a
14 discussion. And we've talked about it. But I just don't think
15 it's the course for him to go, and we can always file it at a
16 later date. I don't know. I --

17 THE COURT: I'm only interrupting you to say this.
18 This wasn't in the order to show cause, but I am considering --
19 have not yet made any decision about it -- the possibility if I
20 dismiss the case is to include in the order a bar on any filing
21 for some period of time, six months or whatever, but --

22 MR. FISCHOFF: Well, I would ask the Court to not bar
23 a subsequent Chapter 7 filing at a later date, which could be
24 in two weeks or never. But I would -- because I think
25 everyone's entitled to the discharge, to the extent he would

1 get a discharge. And so one filing, I don't think, would
2 justify barring him from Chapter 7. I understand another 11,
3 and I'm not going to -- if it's a 180-day bar, I guess, or a
4 90-day bar, the debtor can live with that. But I would ask
5 that a Chapter 7 --

6 THE COURT: Okay.

7 MR. FISCHOFF: -- be excluded from that. So I don't
8 know. I think Mr. Tewari was telling me he wanted to address
9 the Court, but I'm not sure if the Court wants to hear from
10 him.

11 THE COURT: I'm certainly prepared to hear from him.

12 MR. FISCHOFF: Okay.

13 THE COURT: Why don't you come up to the microphone
14 over there? Sure.

15 And he's not being sworn. This is not testimony under
16 oath. We can --

17 DR. TEWARI: It doesn't matter.

18 THE COURT: -- see where that goes.

19 DR. TEWARI: Good afternoon, Judge Glenn. I'm Dr.
20 Sanjay Tewari. I'm at my wit's end because I don't know what
21 to do. Right. There is no money. I've heard from every
22 conference that's been given that Blank Rome lies to you about
23 secret cash, secret storage locker, secret this, secret that --
24 secret that. This is exactly what they do in matrimonial
25 court, where they lie without any facts, and they claim that a

1 doctor makes 10,000 dollars a day in cash.

2 THE COURT: Well, let me just -- I'm going to
3 interrupt you.

4 DR. TEWARI: So I don't want to -- I'm asking you --

5 THE COURT: I want to interrupt you for this purpose.

6 DR. TEWARI: Sorry. Sorry.

7 THE COURT: In my humble opinion, you don't do
8 yourself any good if what I hear from you are they lie about
9 this, they lie about that, they lie about the other thing. If
10 that's what you want to tell me, I don't want to hear from you.

11 DR. TEWARI: No, that's not what I want to tell you.

12 THE COURT: Okay.

13 DR. TEWARI: I just want to say that it's very
14 frustrating for me, the -- the sole guy, who -- who every
15 single paycheck is on record. Every tax dollar is -- tax
16 record is on is on record. I don't know where I'm supposed to
17 get this magic, magical money from. I -- other than it just
18 being a pecuniary idea by Blank Rome and Ms. Kohli to just
19 punish me further and further because I'm not a lawyer. All
20 three of them are lawyers. I have no idea what happens in the
21 legal world.

22 I don't even have money for a lawyer in matrimonial
23 court since January of this year. I bought the custody trial
24 pro se because there's no money. I borrowed as much as I can
25 from my parents, who are retired. I don't know what to do.

1 That's why I told Mr. Fischhoff, well, if it goes to Chapter 7,
2 then just take what you want -- or take whatever's left because
3 I don't know what else to do. Like, I actually don't know what
4 else I can do --

5 THE COURT: Well, let me just say, because Mr.
6 Fischhoff raised this, bankruptcy judges don't deal with custody
7 issues, period.

8 DR. TEWARI: No. I know. I'm just --

9 THE COURT: That is what happens in the matrimonial
10 court, and I don't --

11 DR. TEWARI: Correct, but I'm just stating that if I
12 had any money, I would have paid for an attorney to defend me.
13 There's no money for an attorney because they all want 50,000
14 or 100,000 in retainer. There's no money at all. So then I'm
15 here fighting this alone, and if I have to file Chapter 7, Mr.
16 Fischhoff, I have to pay him again. Where is that money going
17 to come from?

18 So I'm looking to the federal court for advice on,
19 like -- or guidance. Like, what am I supposed to do? The
20 money's all gone. There's no access to money. I work, but I'm
21 completely dependent on autistic kids coming to me to find
22 work. And then what am I supposed to do?

23 In the end, what am I supposed to do? Right. So
24 if -- if converting to Chapter 7 today is best for me, then
25 that's what's best. If it's not --

1 THE COURT: Well, I'm not the one to tell you that.

2 DR. TEWARI: No, you're the one that --

3 THE COURT: That's not my role.

4 DR. TEWARI: You're the one that decides that. And
5 like, I don't know where I can magically create money from if
6 there's none available. And that's all I -- all I have to say.
7 Like, I don't know where I can magically create money from.

8 And these guys keep thinking there's a magical box
9 somewhere with money in it. There is no magical box anywhere.
10 No doctor gets paid in cash. If your doctor asks you for cash,
11 please don't go to him. Right. Because then there's no
12 record. The whole point is there's a record. But they keep --
13 they keep pushing the same -- same agenda. Okay. And --

14 THE COURT: Thank you.

15 DR. TEWARI: -- that's it.

16 THE COURT: Thank you.

17 Mr. Herman.

18 Or Mr. Fischhoff, is there something else you wanted to
19 say before I turn to Mr. Herman?

20 MR. FISCHOFF: I just want to say that, as I said, we
21 don't object to a dismissal with a carve out to allow him to
22 file Chapter 7 at any time in the future, if he chooses that
23 path after further discussion.

24 THE COURT: Well, let me hear from Mr. Herman first,
25 and then --

1 MR. FISCHOFF: Okay.

2 THE COURT: -- we'll come back and talk about that.

3 Mr. Herman. First, Mr. Herman, the order to show
4 cause, and this is an evidentiary hearing. You did file two
5 declarations. Do you wish to offer them in evidence?

6 MR. HERMAN: I do, Your Honor. But I wanted to say
7 good afternoon. Ira Herman, Blank Rome, counsel for Mr. Kohli.

8 Yes, I'd like to offer them into evidence. Both
9 declarants are sitting here.

10 This is Ms. Chamoun, my colleague. She basically
11 provided a documentary custody affidavit or declaration.

12 THE COURT: So one is her declaration is ECF 82, and
13 Ms. Kohli's declaration is ECF 83. You're offering them in
14 evidence?

15 MR. HERMAN: I am, Your Honor.

16 THE COURT: Any objections, Mr. Fischoff?

17 MR. FISCHOFF: Well, the attachments, I have
18 objections to, because they have a summary of alleged post-
19 petition arrears that is incorrect. So I don't have an
20 objection in the admitted evidence as to the -- as to for
21 whatever they're worth.

22 But they're incorrect. There are allegations that
23 there's rent, many months of rent, that wasn't paid. There's a
24 lot of stuff that assumes it was Mr. Tewari's obligation to
25 pay. And when he did have matrimonial counsel, some of those

1 items weren't clear. So I guess I object to entry of that into
2 evidence as it's not correct facts.

3 MR. HERMAN: Your Honor, I think I'm hearing --

4 THE COURT: Yeah. Just wait, wait, wait, wait. Just
5 a second.

6 MR. HERMAN: Okay.

7 MR. FISCHOFF: That's the affidavit of Ms. Tewari, I
8 believe (indiscernible).

9 THE COURT: If you had objections, you should have
10 filed them yesterday by 12 noon. Both of these declarations
11 were filed on September 6th, were timely filed, and you had
12 your chance to respond.

13 MR. FISCHOFF: Well, since we weren't opposing
14 dismissal, I wasn't aware that the Court might enter these into
15 evidence.

16 THE COURT: Well, I said it was going to be. Look,
17 the order to show cause on the second page says:

18 "The hearing shall be an evidentiary hearing. All
19 direct testimony in support of or in opposition to the
20 show cause must be submitted via declarations filed on
21 or before the objection deadline. The declarants must
22 be present in person at the September 13th hearing and
23 available for cross-examination."

24 MR. FISCHOFF: That's correct. And if the Court
25 wishes, I'll cross-examine Ms. Tewari on the attachment to her

1 affidavit.

2 THE COURT: Let me hear from Mr. Herman first, and
3 then we'll --

4 MR. HERMAN: Your Honor --

5 THE COURT: It's a little -- because there's no
6 opposition to the dismissal, it raises -- I don't know where
7 we're going.

8 MR. HERMAN: First, Your Honor, I haven't heard an
9 objection to the introduction of the declarations into
10 evidence. I've only heard an argument with the substance of
11 one of them so --

12 THE COURT: Well, there was an objection to the
13 exhibits that are attached to the declarations.

14 MR. HERMAN: To the correctness of that exhibit, Your
15 Honor. I think that's what I heard from Mr. Fischhoff.

16 MR. FISCHOFF: Look, let me clarify. I don't object
17 to the declaration of Ms. Taranto and the evidence. Those are
18 just referring to filed documents from the state court action.

19 THE COURT: All right. So you're not objecting to the
20 Taranto declaration or the exhibits attached?

21 MR. FISCHOFF: That's correct.

22 THE COURT: They're admitted into evidence.

23 (Declaration of Ms. Taranto was hereby received into
24 evidence as Geeta Kohli's Exhibit --, as of this date.)

25 MR. HERMAN: Thank you, Your Honor.

1 THE COURT: Okay. That's ECF 82, and its exhibits are
2 admitted into evidence.

3 MR. HERMAN: Thank you, Your Honor.

4 THE COURT: Well, I'm not sure I need the Kohli
5 declaration, but go ahead, Mr. --

6 MR. HERMAN: I'm not sure you need it also, Your
7 Honor, but as I said, I think I heard an objection on
8 substantive matters, not on to the form or to the -- or to its
9 admissibility as evidence. It was prepared. It's subject to
10 cross, if we ever get there. It seems to me Your Honor does
11 not want to rule on that evidentiary issue at this point, so
12 I'll move on. We can --

13 THE COURT: Go ahead.

14 MR. HERMAN: -- circle back later.

15 THE COURT: Sure.

16 MR. HERMAN: I heard the vitriol, Your Honor, and I'll
17 choose to ignore it.

18 THE COURT: I mean, please ignore it. I don't --

19 MR. HERMAN: Yes. I'll choose to ignore it, Your
20 Honor.

21 THE COURT: I tried to be nice about saying I don't
22 think it advances the cause.

23 MR. HERMAN: Right.

24 THE COURT: Okay.

25 MR. HERMAN: Your Honor, the fact is, Dr. Tewari has

1 not produced a single document in this case. He can say
2 whatever he wants to say and make whatever statements he wants
3 to make. He has not fulfilled his obligations as a debtor-in-
4 possession. He has not acted in good faith as far as Ms.
5 Tewari is concerned. His operating reports show that he is
6 administratively insolvent, whether or not we reached Ms.
7 Tewari's affidavit or declaration or not. He has used and --
8 or you've heard our argument before. He's used this case as a
9 sword and a shield. The matrimonial court is about to ask us
10 for dates for trial on equitable distribution and other
11 economic issues.

12 THE COURT: What's the status of the state court?

13 MR. HERMAN: The best I understand, and Ms. Taranto is
14 sitting here and can help me if I need some help, Judge. But
15 the best --

16 THE COURT: Okay. You probably need help, Mr. Herman.

17 MR. HERMAN: I don't think I do, but I might.

18 THE COURT: I want to try to --

19 MR. HERMAN: She can correct me if I'm wrong.

20 Your Honor, I believe they've tried custody, and that
21 issue is sub judice. And they're ready to try or set a
22 schedule to try economic issues. We were hoping that the case
23 is dismissed today so there's no automatic stay so they can
24 finish administering the matrimonial matter without having to
25 worry about stay violations.

1 And that's really fundamental, Judge, because there
2 has been delay. Mr. Fischhoff and I have spoken about economic
3 issues, and we have made some progress on those issues. But as
4 far as the custody issues and those matters, we've made no
5 progress, Judge. And as I said, that matter is sub judice.
6 And that matter is not really before this Court.

7 THE COURT: I made that clear. Issues of custody
8 clearly are not --

9 MR. HERMAN: Are not before this Court.

10 THE COURT: Right.

11 MR. HERMAN: So Your Honor, I could make a more
12 complete argument, but I think the record and the documents
13 attached to Ms. Taranto's declaration -- I guess it's ECF 82 --

14 THE COURT: Yeah.

15 MR. HERMAN: -- support dismissal of this case. There
16 is no hope of reorganization, as Your Honor, I think, has
17 recognized. There is no reason for this to be a Chapter 7.

18 THE COURT: Well, let me ask a couple of questions.
19 What do you believe the accumulated arrears on domestic support
20 obligations are as of now? And that --

21 MR. HERMAN: I think they're in excess --

22 THE COURT: While you're looking, just let me say
23 this.

24 MR. HERMAN: -- of 180,000 dollars, Judge.

25 THE COURT: I'm sorry. Say it again.

1 MR. HERMAN: It's in excess of 180,000 dollars, we
2 believe, Judge.

3 THE COURT: Okay. And that does not seem to be an
4 issue as to which there are grounds for dispute. I don't know
5 whether that's the exact dollar amount or not, but the state
6 court ordered certain payments. The accumulated DSO payments
7 are what they are. And the one thing I can say with certainty
8 as a bankruptcy issue is they're not dischargeable.

9 And I don't think you dispute that, Mr. Fischhoff.

10 MR. FISCHOFF: No.

11 THE COURT: All right. So when I consider, and I do
12 want you to address this, Mr. Herman, and that's the issue of
13 dismissal versus conversion, conversion to Chapter 7. Because
14 of the priority in the Code for DSO payments, let's put aside
15 the fact that they're not dischargeable. They're not
16 dischargeable.

17 But because of the priority, that does not seem to me
18 to be assets to be administered for the benefit of other
19 creditors. If the value of the estate exceeded the amount of
20 priority payments that are due to Ms. Kohli as a priority, I
21 would say, well, maybe the case should be converted to Chapter
22 7. And I may be missing something, and you can both address
23 this. What's the point of converting it to a Chapter 7 when no
24 creditors other than Ms. Kohli would stand to benefit from
25 administering a Chapter 7 estate, which of course would cost

1 money to do?

2 MR. HERMAN: Your Honor, I'll just add one thought to
3 what you just said. Even assuming it's 120,000 as opposed to
4 180,000, there still has not been a equitable distribution
5 award, which is --

6 THE COURT: Which also is not dischargeable.

7 MR. HERMAN: -- also going to be entitled to priority.

8 THE COURT: Right. But priority.

9 MR. HERMAN: Which could run into more hundreds of
10 thousands of dollars.

11 THE COURT: Okay. The basic point, and Mr. Fischhoff,
12 and I'll certainly ask you to address this as well, what would
13 be the point of a Chapter 7 case if there's nothing left for
14 unsecured creditors? There's nothing to be administered, just
15 expense.

16 MR. HERMAN: Your Honor, my only thought is it's a
17 further attempt to delay the inevitable and force Ms. Kohli to
18 move for stay relief.

19 THE COURT: Yeah. As you stand there in good faith
20 argument, you do not believe there are any assets in the estate
21 to be administered that wouldn't go to Ms. Kohli as a priority
22 creditor?

23 MR. HERMAN: I think that's correct, Your Honor.

24 THE COURT: Is that a fair statement?

25 MR. HERMAN: Let me confer.

1 THE COURT: Please. Go ahead. I want to be sure.

2 MR. HERMAN: Your Honor, as best we can tell, and as
3 an officer of the court, I can't prove it because I'm not going
4 to provide evidence. Although the documents speak for
5 themselves, there does not appear to be sufficient assets in
6 the estate to pay the arrears and certainly not to pay the
7 equitable distribution that we expect to happen in the case --
8 in the matrimonial.

9 THE COURT: Mr. Fischhoff, can you address that? I'm
10 really not trying to be argumentative at all about this. I'm
11 focusing on, it's really the question that you had about can
12 you advise Dr. Tewari to convert the case to a Chapter 7 if
13 there's just not enough to go beyond what priority Ms. Kohli is
14 entitled to. What's the point?

15 MR. FISCHOFF: And although I may dispute the numbers
16 attached to Ms. Kohli's affidavit --

17 THE COURT: Right.

18 MR. FISCHOFF: -- it doesn't matter whether it's the
19 190 or 50 because the Court's analysis is correct. I don't
20 believe there are sufficient assets above and beyond what she
21 might turn out to be -- what might be owing.

22 Dr. Tewari is a doctor. He has personal services
23 income, but his practice is just him. So I don't believe -- I
24 haven't had an economist analyze it, but I don't believe
25 there's anything available on liquidation.

1 And frankly, the Court's view is what's the benefit to
2 creditors, and I believe there's no benefit to the debtor
3 either because even if he went through a Chapter 7, he's going
4 to still be in pretty much the same predicament he's now in.
5 And that's why I had said we would consent to a dismissal based
6 on that analysis.

7 And down the road, if he determines with me or some
8 other advisor that a Chapter 7 makes sense, he can embark on
9 that. But for today, it clearly has no --

10 **THE COURT:** Here's my concern. If Ms. Kohli has a
11 priority that exceeds the value of the estate, which it
12 certainly appears to be the case, and it's nondischargeable,
13 how could the filing of a Chapter 7 case or a conversion to
14 Chapter 7 be in good faith? It would not be -- it would not be
15 to the benefit of any unsecured creditors. It would raise --
16 in some ways, it would raise the issue that we all faced at the
17 start of this case. And that was when the state matrimonial
18 judge was holding him in contempt and the risk of
19 incarceration.

20 And I have to say, I'm not ruling on this, but it
21 would be a real, serious question whether it would be a filing
22 in good faith if there was no conceivable creditors other than
23 Ms. Kohli who would stand to benefit from any distribution in a
24 Chapter 7. That's what's kind of bothering me.

25 **MR. FISCHOFF:** I understand that, and I --

1 THE COURT: That's one of the reasons I asked the
2 question about a bar on refiling.

3 MR. FISCHOFF: Yeah. I think he should have the
4 option. I'm not the only bankruptcy lawyer out there. And
5 maybe he'll find somebody that has --

6 THE COURT: Well, I'm not flattering you. You're a
7 pretty good bankruptcy lawyer.

8 MR. FISCHOFF: Well, the point is, I'm not asking to
9 convert it because I don't see the point. And the point I
10 don't see today may be the point I wouldn't see when we talk
11 about it again separately. But I think he should be left --
12 that option should be left open for him and perhaps some other
13 professional to make that decision. That's all. I think, and
14 I'm not -- yeah, that's it.

15 THE COURT: It's okay.

16 MR. FISCHOFF: Sometimes we have to know when to stop
17 speaking.

18 THE COURT: Okay. Does U.S. Trustee have a position?
19 Just a second, Dr. Tewari.

20 MS. SCOTT: Sorry, Your Honor. I'll be brief.

21 THE COURT: You can sit behind the bar, but I can
22 still call on you.

23 MS. SCOTT: Okay. I'll be brief. I don't really have
24 a position.

25 THE COURT: Just make your appearance.

1 MS. SCOTT: Shannon Scott for the U.S. Trustee. I
2 agree with the analysis that just occurred, and even in looking
3 at the list of unsecured claims, there really isn't anything
4 substantive here beyond what --

5 THE COURT: I think that --

6 MS. SCOTT: -- Ms. Kohli has.

7 THE COURT: -- Ms. Kohli's mother is a creditor. Am I
8 right about -- no? Maybe I'm confusing --

9 MS. SCOTT: I see a personal loan for --

10 THE COURT: -- this case with another matrimonial case
11 that I have.

12 MS. SCOTT: I see a personal loan for less than 8,000.

13 THE COURT: Okay.

14 MS. SCOTT: Oh, I see another personal loan for
15 50,000.

16 THE COURT: Okay.

17 MS. SCOTT: But given the priority and the
18 nondischargeability, I agree with Your Honor's analysis and the
19 facts that came to light during this hearing. I tend to
20 support dismissal over conversion. Thank you.

21 THE COURT: Thank you.

22 Dr. Tewari, go ahead.

23 DR. TEWARI: Sorry, sir.

24 THE COURT: Please go to the microphone so we have a
25 clear record.

1 DR. TEWARI: Thank you. The 58,000 in personal loans
2 were to me prior to filing, not from Ms. Kohli. Those are
3 other -- other debtors --

4 THE COURT: Okay. No, I understood Ms. Scott to be
5 saying that.

6 DR. TEWARI: Okay. Okay. And the only reason I was
7 asking about Chapter 7 was because I read that there was a
8 homestead exemption if the equity on the house is low. And I
9 work up near Albany in a autistic kids clinic. And that was
10 the -- that was the only reason I thought maybe a Chapter 7
11 would allow me to at least live somewhere while I take care of
12 these kids. That -- but I don't know, obviously.

13 THE COURT: The exemption -- and I don't know the --
14 the exemption would be relevant if there's equity in the house.
15 The mortgage gets paid off first before --

16 DR. TEWARI: Okay.

17 THE COURT: If the mortgage exceeds the value of
18 the -- if the unpaid secured debt --

19 DR. TEWARI: Um-hum.

20 THE COURT: -- exceeds the value of the property, I
21 have no idea. The exemption isn't going to do you any good.

22 DR. TEWARI: Well, that was the only reason I was
23 thinking Chapter 7 because I can at least live somewhere and
24 work. That -- that was the --

25 THE COURT: Yeah.

1 DR. TEWARI: But okay.

2 MR. FISCHOFF: I'll discuss it with him further.

3 THE COURT: Okay. All right. I mean, is that the
4 property on which there was a lift stay motion?

5 MR. HERMAN: Yes, Your Honor.

6 MR. FISCHOFF: We entered into a conditional order on
7 that.

8 THE COURT: I know.

9 MR. FISCHOFF: That specifically said it survived
10 the -- the deal survives dismissal.

11 THE COURT: Yes.

12 MR. FISCHOFF: That took an extra couple of weeks to
13 get that sentence, but I can see the future.

14 THE COURT: Okay. Mr. Herman.

15 MR. HERMAN: First of all, Your Honor, thank you for
16 your patience with both -- and I think I'm going to thank you
17 on behalf of Mr. Fischoff as well because --

18 THE COURT: Both you and Mr. Fischoff have been
19 entirely professional throughout this case, representing your
20 clients to the best of your ability. Right.

21 MR. HERMAN: Judge, I think Ms. Kohli at this point is
22 entitled to complete the matrimonial case without interference
23 by the automatic stay. And I use the word "interference"
24 intentionally because it's being used as a sword to prevent
25 various things from happening. And as I said earlier, Your

1 Honor, there's been no discovery provided in this case, and I'm
2 told there's been virtually none in the matrimonial case. And
3 yet Mr. Fischhoff and I have been trying to settle the case
4 almost in an information vacuum.

5 Your Honor, we think that any dismissal order should
6 include a bar against a further filing because all that's going
7 to happen is we'll be back here. Ms. Kohli will have to go
8 through the expense of moving for the stay or dismissal in bad
9 faith for all the reasons that Your Honor articulated. The
10 record supports that result.

11 THE COURT: If the case filed again in this district,
12 guess who would have it? If he went elsewhere, if he has
13 property in the Northern District, and he goes there then --

14 MR. HERMAN: That's what we're concerned about, Your
15 Honor.

16 THE COURT: Yeah, I understand.

17 MR. HERMAN: And I've seen it so many times.

18 THE COURT: I know.

19 MR. HERMAN: I think she should be able to get to the
20 end of the matrimonial case. And I think Dr. Tewari,
21 notwithstanding what he believes, would be best served by just
22 finishing.

23 THE COURT: Don't. You can't tell him --

24 MR. HERMAN: I can't tell that.

25 THE COURT: -- what's in his best interest.

1 MR. HERMAN: You heard how I said it.

2 THE COURT: Yes.

3 MR. HERMAN: I said, I think completing something is
4 important here. And there's no benefit to a Chapter 7 to any
5 creditor. All it will do is burden Ms. Tewari and interfere
6 with the completion --

7 THE COURT: Okay.

8 MR. HERMAN: -- of the matrimonial action, Judge.

9 THE COURT: All right. The Court will enter an order
10 dismissing Dr. Tewari's Chapter 11 case with a bar on refileing
11 for six months from the date of the entry filing in this
12 district or any other district. Because I've seen it too. If
13 he has property upstate, well, he runs upstate to file a case.
14 And then there's a whole issue about history.

15 Okay. The Court concludes -- first off, the order to
16 show cause -- the basis for the order to show cause was no
17 reasonable prospect of a successful reorganization in a
18 reasonable period of time. That's clear. Crystal clear.
19 That's not really disputed.

20 My analysis of the case shows there is no proper basis
21 for converting the case to a Chapter 7. I've expressed those
22 reasons. My analysis shows that there is no reasonable
23 prospect in the event it was converted to Chapter 7 for any
24 creditors other than Ms. Kohli to obtain a recovery. In other
25 words, there's no assets to administer. Ms. Kohli is entitled

1 to priority. Equitable distribution hasn't been made, but that
2 would be entitled to priority. It would also be
3 nondischargeable.

4 So in the Court's view, there is no appropriate basis
5 to convert the case to Chapter 7. And therefore, any new
6 filing, in the Court's view, would be in bad faith. This case
7 was filed after the state court matrimonial judge threatened
8 Dr. Tewari with contempt and possible incarceration.

9 The early go-rounds in this case had to do with
10 whether or not the automatic stay applied to prevent
11 enforcement of the state court order. That's water under the
12 bridge at this point. But under the circumstances I describe,
13 I do not believe there would be any reasonable basis if this
14 case was dismissed without a bar and refileing for any new
15 filing. I think, in these circumstances, the six-month bar is
16 the appropriate length of time.

17 I sincerely hope that you all can find a way -- when I
18 "you all", this is really Dr. Tewari and Ms. Kohli -- can find
19 a way to resolve the issues. Custody, that's completely out of
20 my bailiwick. Okay. That is not something that bankruptcy
21 courts deal with. But on the economics, you need to find a
22 way.

23 Are there appellate proceedings pending in state
24 court?

25 MR. HERMAN: They were dismissed, Your Honor. And

1 motion for reconsideration has also been denied.

2 MS. TARANTO: Correct.

3 DR. TEWARI: Actually, Your Honor, the appellate
4 decision was the case hasn't concluded yet, so they denied it
5 in -- in process --

6 THE COURT: Okay.

7 DR. TEWARI: -- waiting for the final judgment. That
8 was what was exactly said. All right.

9 MS. TARANTO: If I may, Your Honor.

10 THE COURT: Yes, please. Identify yourself, but go
11 ahead.

12 MS. TARANTO: Yes. Thank you. Ms. Chamoun Taranto.
13 I have been representing Ms. Kohli since the inception of the
14 matrimonial action --

15 THE COURT: Yes.

16 MS. TARANTO: -- over two years ago. In regards to
17 the appeal, Dr. Tewari had filed five appeals against every
18 single decision and order in the matrimonial action. The First
19 Department denied every single one of the five. He then filed
20 a motion for reconsideration, which was also denied.

21 THE COURT: Okay.

22 MS. TARANTO: Thank you.

23 THE COURT: Just give me a second.

24 All right. So I will enter an order dismissing the
25 Chapter 11 case. Declining to convert the case to a case under

1 Chapter 7. Include a bar on refiling any case under any
2 chapter of the Bankruptcy Code for six months from the date of
3 the entry of the order and from filing in this district or any
4 other district. And hopefully, that order will be entered
5 sometime this afternoon.

6 MR. HERMAN: Thank you, Your Honor.

7 THE COURT: Thank you.

8 MR. FISCHOFF: Thank you for your time, Judge.

9 THE COURT: Okay. Thank you. We're adjourned. Thank
10 you.

11 MS. TARANTO: Thank you.

12 (Whereupon these proceedings were concluded at 2:43 PM)

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I N D E X

E X H I B I T S

GEETA KOHLI'S	DESCRIPTION	MARKED	ADMITTED
--	Declaration of Ms. Taranto		13

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C E R T I F I C A T I O N

I, River Wolfe, certify that the foregoing transcript is a true and accurate record of the proceedings.



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Date: July 18, 2024

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