

SIGNED.



Dated: January 26, 2009

James M. Marlar
JAMES M. MARLAR
U.S. Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

In re:) Chapter 13
JOHN W. STONE,) No. 2-08-bk-16103-JMM
Debtor.) Adversary No. 2:09-ap-00045-JMM

John W. Stone, as Chapter 13 and Chapter 11
DIP on behalf of bankruptcy estates Chapter 13,
Chapter 11 and on behalf of self and Shirley D.
Stone, as party in interest and Chapter 11 DIP,
on behalf of Chapter 11 bankruptcy estate and
self,

Plaintiffs,

vs.

Bankruptcy Judge James Marlar, in individual
capacity; Federal Judges Mary H. Murguia,
Steven (sic) McNamee and David C. Bury in
their individual capacity; Court of Appeal
Judges Maurice Portley, Jon W. Thompson, and
Edward O. Burke, in their individual capacity;
Pro Tem Justices of the Peace David Fletcher
and Richard Haworth, in their individual
capacity; Pro Tem Superior Court Judge William
Schafer, in his individual capacity, Justices of
the Peace Gary Handley and Lex Anderson, in
their individual capacity; ans Superior Court
Judge Robert Houser, in his individual capacity;
Kent and Kristina Harding, attorneys Joseph
Boyle, Scott M. Clark and Paul Henderson;
Edward J. Maney, Chapter 13 trustee in his
individual and official capacity, and 1-50 Jane
and or John Does,

Defendants.

ORDER TO SHOW CAUSE

1 **TO: JOHN W. STONE, Debtor, Plaintiff and Respondent**

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3 This court, *sua sponte*, hereby DIRECTS the Plaintiff / Respondent to appear and
4 show cause why this adversary proceeding should not be dismissed, for Plaintiff's failure to obtain
5 leave of the United States District Court prior to filing it. *See* Order of September 29, 2008, attached
6 hereto as Exhibit "A."

7 IT IS ORDERED that a hearing shall be held on **February 12, 2009 at 1:30 p.m.**,
8 U.S. Bankruptcy Court, 230 North First Avenue, Hearing Room 602, Phoenix, Arizona at which time
9 the Plaintiff / Respondent shall appear and show cause why this adversary proceeding should not
10 be dismissed.

11 IT IS FURTHER ORDERED, until such time as the Plaintiff can show proof that he
12 has complied with District Judge Mary Murguia's Order, that all Defendants in this action are
13 relieved from having to make any formal appearance in this proceeding, by way of answers or
14 motions to dismiss, until further order of this court.

15
16 DATED AND SIGNED ABOVE.

17
18 COPIES served as indicated below on
19 the date signed above:

20 John W. Stone	
21 18025 N. 88th Drive	
22 Peoria, AZ 85382	U.S. Mail
23 Mary H. Murguia	Email
24 Stephen McNamee	Email
25 David C. Bury	Email
26 Maurice Portley	Email
27 Jon W. Thompson	Email
28 Edward O. Burke	Email
	Email

1 Edward J. Maney, Esq. #012256
2 CHAPTER 13 TRUSTEE
3 P.O. Box 10434
4 Phoenix, Arizona 85064
5 (602) 277-3776 Ext. 213
6 ejm@maney13trustee.com

7 **IN THE UNITED STATES BANKRUPTCY COURT**
8 **FOR THE DISTRICT OF ARIZONA**

9 In re:
10 JOHN WINSTON STONE,
11 Debtor.

In Proceedings Under Chapter 13
Case No. 2-08-bk-16103-JMM
**TRUSTEE'S MOTION TO
DISMISS CASE**

12 Edward J. Maney, Chapter 13 Trustee, hereby moves this Court for an Order dismissing this
13 case. This Motion to Dismiss is filed for the following reasons:

14 1. Pursuant to 11 U.S.C. §521(a)(2)(B) and Rule 2084-5, L.R.B.P., the Trustee requests
15 that the case be dismissed because debtor failed to file all required tax returns and provide a copy
16 of the 2007 federal income tax return to the Trustee prior to the meeting of creditors.

17 2. The Arizona Department of Revenue has filed a proof of claim indicating that the
18 debtor has failed to file individual income tax returns for 2003, 2004, 2005, and 2006. The claim
19 also shows debtor failed to file TPT returns for period in 2004, 2005, 2006, 2007 and 2008.

20 3. Debtor has indicated to the Trustee that he has not filed personal income tax returns
21 for 2004 and 2005. This presumes that debtor has failed to file federal returns for these periods.

22 4. 11 U.S.C. §521(e)(2)(A) requires that debtor provide to the case trustee a copy of the
23 2007 federal income tax return not later than seven days before the first meeting of creditors.
24 Debtor's meeting of creditors was held on December 17, 2008, and at that time the trustee had not
25 received a copy of the 2007 federal income tax return. The trustee still does not have a copy of the
26 tax return as required by the Code, despite having requested a copy of the return prior to the meeting
27 of creditors.

1 5. 11 U.S.C. §1308(a) requires that debtor must file all tax returns for the four years
2 preceding the filing of the bankruptcy case. Failure to comply with this section permits dismissal
3 by the Court pursuant to Rule 2084-5, L.R.B.P.

4 6. Debtor is past due for the January 12, 2009 plan payment in the amount of \$1,200.00.

5 7. Debtor was adjudged to be a vexatious litigant in CV 07-1801-PHX-MHM. The
6 Order specifically prohibited the debtor from filing any case in the District of Arizona without leave
7 from the Federal District Court. This was not done.

8 Wherefore, the Trustee requests the debtor's case be dismissed along with all related
9 adversary proceedings.

10 See Signature Block:

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EDWARD J. MANEY,
CHAPTER 13 TRUSTEE

Edward J.

Maney, Esq.

Edward J. Maney, Esq. #012256

Chapter 13 Trustee

P.O. Box 10434

Phoenix, Arizona 85064

(602) 277-3776 Ext. 213

Digitally signed by Edward J. Maney, Esq.
DN: cn=Edward J. Maney, Esq., c=US,
o=Edward J. Maney, Chapter 13 Trustee,
email=ejm@maney13trustee.com
Date: 2009.01.27 10:18:57 -0700

18 Copy of the foregoing
19 mailed this ____ day
of January, 2009, to:

20 John Winston Stone
21 18025 N. 88th drive
Peoria, AZ 85382

22 Ilene J. Lashinsky, Esq.
23 U.S. Trustee
230 North First Ave., Suite 204
Phoenix, AZ 850033-1706

24 Lisa Starkey
Digitally signed by Lisa Starkey
DN: cn=Lisa Starkey, o=Edward J. Maney Chapter 13
Trustee, email=lstarkey@maney13trustee.com
Date: 2009.01.27 10:17:56 -0700

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