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JAN 29 2009



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1 John W. Stone
2 Shirley D. Stone
3 18025 N. 88th Drive
4 Peoria, AZ 85382
5 Petitioners/Pro per
6 623-330-1506

7 SUPERIOR COURT OF ARIZONA
8 MARICOPA COUNTY

9 John W. Stone and Shirley D. Stone,
10 Husband and wife,

NO: NO: LC2008-000621-001 DT

11 Petitioners

12 Maricopa County Manistee Justice Court
13 Case No. CC2007176431

14 vs.

15 Justice of the Peace Pro Tem Judge David
16 Fletcher, in and for Maricopa County
17 Manistee Justice Court and Kent C. Harding,
18 real party in interest,

19 **EMERGENCY MOTION TO VACATE**
20 **COURT'S ORDER GRANTING**
21 **MOTION TO RECONSIDER**
22 Pursuant to 11 U.S.C. § 362(a),
23 **PETITIONERS' RESERVE 20-DAY**
24 **RIGHT TO RESPOND**

25 Respondents

Assigned to the
Honorable Paul J. McMurdie

With all due respect to this Court, the petitioners' request that this Court vacate its January 26, 2009 order, pursuant to the Bankruptcy Code, 11 U.S.C. § 362(a) and reserve the 20 day right to respond.

On November 12, 2008, petitioner John W. Stone filed a chapter 13 bankruptcy petition with the Phoenix Bankruptcy Court Case No. 08-16103, which automatically instituted the automatic stay pursuant to 11 U.S.C. § 362.

Therefore, this Court proceeded without jurisdiction since the respondents neglected to get the stay lifted.

1 On December 1, 2008, the petitioner, John Stone, noticed this Court, and served the
2 respondents, that he had filed a petition for Chapter 13 bankruptcy and had changed his address.

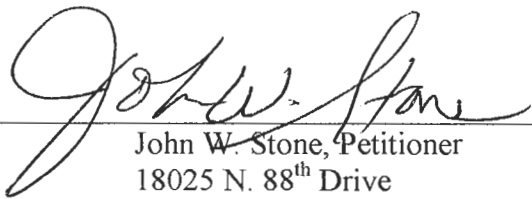
3 The Bankruptcy Code, 11 U.S.C. § 362(a), specifically provides that, “a petition filed under
4 this title automatically stays the commencement or continuation of a judicial, administrative, or other
5 action or proceeding against the debtor to obtain possession of property, or to exercise control over
6 property, and to collect, assess, or recover a claim against a debtor that arose before commencement
7 of the case.”

8 The real party in interest and his attorneys did not file a motion to lift the automatic stay of
9 petitioner Stone’s chapter 13 and have not provided this Court with any documentation to prove
10 otherwise.

11 “Violations of the automatic stay are void as a matter of law.” *In re Schwartz*, 954 F.2d 569,
12 572 (9th Cir. 1992).

13 Wherefore, for the foregoing reasons, the petitioners request this Court to vacate its order for
14 reconsideration, until such time the stay is lifted or other legitimate reason and preserve the
15 petitioners’ 20-day right to respond to the respondent party in interest’s motion for reconsideration.
16

17 Respectfully submitted this 20th day of January 2009.
18 *29th*

19
20 By: 
21 John W. Stone, Petitioner
22 18025 N. 88th Drive
23 Peoria, AZ 85382
24 623-330-1506
25

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2008-000621-001 DT

02/03/2009

HONORABLE PAUL J. MCMURDIE

CLERK OF THE COURT
S. LaMarsh
Deputy

JOHN W STONE
SHIRLEY D STONE

JOHN W STONE
18025 N 88TH DR
PEORIA AZ 85382
SHIRLEY D STONE
18025 N 88TH DR
PEORIA AZ 85382

v.

HON DAVID FLETCHER (001)
KENT C HARDING (001)

LISA S WAHLIN
PAUL A HENDERSON

REMAND DESK-LCA-CCC

MINUTE ENTRY

The Court has received and considered Petitioner's Motion to Vacate Court's Order Granting Motion to Reconsider.

IT IS ORDERED denying the motion. The Response to the Motion to Reconsider shall be filed as ordered.