

**U.S. BANKRUPTCY COURT
District of South Carolina**

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SC Court of Appeals

Case Number: **26-01317-jd**

Order Denying Motion to Extend Stay and Mooting Motion to Lift the Stay

The relief set forth on the following pages, for a total of 4 pages including this page, is hereby ORDERED.

**FILED BY THE COURT
04/30/2026**



L. Jefferson Davis IV

US Bankruptcy Judge
District of South Carolina

Entered: 04/30/2026

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

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SC Court of Appeals

IN RE:

C/A No. 26-01317-JD

Miranda Ann Mitchum,

Chapter 13

Debtor(s).

**ORDER DENYING MOTION TO
EXTEND THE AUTOMATIC STAY
AND MOOTING MOTION TO
LIFT THE AUTOMATIC STAY**

Miranda Ann Mitchum (“Debtor”) filed the above captioned case without the assistance of counsel on March 26, 2026. This case is Debtor’s second case pending within a one-year period.¹ Debtor’s prior case was dismissed on March 19, 2026.

On April 2, 2026, Debtor moved to extend the automatic stay (“Motion”).² Debtor’s sole creditor objected and sought to lift the stay.³

The governing statute provides:

[I]f a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case.

11 U.S.C. § 362(c)(3)(A). Further:

[I]f, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in

¹ C/A No. 26-00127-JD.

² ECF No. 41.

³ ECF No. 59.

interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed

11 U.S.C. § 362(c)(3)(B). The Motion was scheduled for hearing on April 29, 2026.

Debtor, counsel for the objecting party, and counsel for the chapter 13 trustee appeared.

Even though Debtor is proceeding pro se, she is bound by governing statutes and the rules of this Court. *In re Lents*, 650 B.R. 238, 243 (Bankr. D.S.C. 2023). In this case, the applicable procedural rules and statute are dispositive.

Debtor filed the Motion on April 2, 2026. Pursuant to Exhibit B to SC LBR 9013-4, there is a fourteen-day objection period for motions to extend the automatic stay. Further, SC LBR 9013-4(a)(2)(A) requires that a hearing be set seven days after the objection deadline. Finally, when service is made by mail, Fed. R. Bankr. P. 9006(f) adds three days to the objection period. Accordingly, a hearing on the Motion could be scheduled no earlier than twenty-four days after service.

Pursuant to § 362(c)(3)(A), the automatic stay in this case terminated on April 25, 2026. Under § 362(c)(3)(B), the movant must file a motion to extend the automatic stay such that it can be heard and decided within 30 days after opening the case. The Court previously issued guidance regarding these timing requirements.⁴

Because Debtor filed the Motion on April 2, 2026, the earliest possible hearing date was April 26, 2026. The Clerk therefore scheduled the hearing for the first available date- April 29, 2026. The Motion was not heard and decided within

⁴ [Practice Reminders | District of South Carolina | United States Bankruptcy Court; Select Court Observations on Practice -The SCOOP July 2025 | District of South Carolina | United States Bankruptcy Court.](#)

30 days of the initiation of this case and therefore, by statute, the automatic stay cannot be extended. *In re Hardin*, 664 B.R. 707, 709 (Bankr. D.S.C. 2024).

Motions to extend the automatic stay under § 362(c)(3) require early consideration. The Court apprised the Debtor of the timing defect when an order was issued on April 15, 2026, denying the objecting party's request to continue the Motion. In that order, the Court held: "[t]he motion to continue is denied. 11 U.S.C. § 362(c)(3) requires prompt consideration of motions to extend the automatic stay and statutorily prohibits the Court from extending the automatic stay unless a hearing is held within thirty days of the petition date."⁵ Despite this notice, Debtor did not seek to expedite the hearing or obtain a hearing within the statutory period.

The Court cannot mend the Motion's filing defects or otherwise act as Debtor's advocate. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 391 (4th Cir. 1990). Because the automatic stay terminated by operation of § 362(c)(3) and cannot be extended, the objecting party's request for relief from the stay is moot. No stay is in effect, and creditors are not constrained by 11 U.S.C. § 362(a) from pursuing state law remedies.

AND IT IS SO ORDERED.

⁵ ECF No. 70.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Commons Pleas

Hon. T.J. Rode

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SC Court of Appeals

Case No. 2024-CP-08-3108
Appellate Case No.: 2025-001820

David Hayes and Brooks A. Hayes.....Respondents

vs.

Miranda Mitchum.....Appellant

PROOF OF SERVICE

I certify that I have served the Respondents' Supplemental Filing To Motion To Dismiss and Proof of Service on the Appellant, Miranda Mitchum, *pro se*, by depositing a copy of it in the United States mail, postage prepaid on May 1, 2026, addressed to her at her address: **630 Levee Drive, Moncks Corner, SC 29461.**

/s/John Samuel West
S.C. Bar No. 6035
Chad Shelton
West Law Firm, PA
207 Carolina Avenue
PO Box 1869
Moncks Corner, SC 29461
843-761-5626 (Telephone)
843-761-5627 (Fax)
Jwestlaw@HomeSC.com
chad@westlawfirmssc.com
Attorneys for the Respondents

May 1, 2026

WLF

JOHN S. WEST

WEST LAW FIRM, P.A.

207 CAROLINA AVENUE
PO BOX 1869
MONCKS CORNER, SC 29461

PHONE: 843.761.5626
FAX: 843.761.5627
WEBSITE: WESTLAWFIRMSC.COM
JWESTLAW@HOMESC.COM

May 1, 2026

BY US MAIL and ELECTRONIC FILING

Hon. Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

***Re: David Hayes and Brooks A. Hayes v. Miranda Mitchum
Case No. 2024-CP-08-3108
Appellate Case No. 2025-001820***

Dear Ms. Kitchings:

Please find enclosed herewith for filing as an additional exhibit to supplement Respondents' Motion To Dismiss, Order Denying Motion To Extend Stay and Mooting Motion to Lift Stay of the US Bankruptcy Court, District of South Carolina filed April 30, 2026 and Proof of Service.

Thanking you in advance for your usual courtesies, I am,

Sincerely yours,



John Samuel West
(w/enclosures as stated)

Cc: Miranda Mitchum
(w/enclosures as stated)
Chad Shelton, Esq.
(w/enclosures as stated)

WLF

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Hon. Jenny A. Kitchings

Clerk of Court

South Carolina Court of Appeals

PO Box 11629

Columbia, SC 29211

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