

ENTERED ON
SEP 07 2006
DOCKET

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
TIMOTHY AUGUSTUS WARD)	
CARRIE WARD)	CASE NO. 06-69176-MHM
)	
Debtors)	
)	
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TIMOTHY AUGUSTUS WARD)	
CARRIE WARD)	
)	
Plaintiffs)	ADVERSARY PROCEEDING
)	NO. 06-9070
v.)	
)	
CLAIMS ACCOUNTING)	
)	
Defendant)	
)	
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TIMOTHY AUGUSTUS WARD)	
CARRIE WARD)	
)	
Plaintiffs)	ADVERSARY PROCEEDING
)	NO. 06-9072
v.)	
)	
U-DRIVE USED CARS)	
)	
Defendant)	
)	
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TIMOTHY AUGUSTUS WARD)	
CARRIE WARD)	
)	
Plaintiffs)	ADVERSARY PROCEEDING
)	NO. 06-9074
v.)	
)	
SPEEDWAY)	
)	
Defendant)	
)	
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TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

HOUCHENS INDUSTRIES

Defendant

**ADVERSARY PROCEEDING
NO. 06-9075**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

PLAZA 94

Defendant

**ADVERSARY PROCEEDING
NO. 06-9076**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

ANTHONY KUSH

Defendant

**ADVERSARY PROCEEDING
NO. 06-9077**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

RENTWAY

Defendant

**ADVERSARY PROCEEDING
NO. 06-9078**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

PVK ENTERPRISES

Defendant

**ADVERSARY PROCEEDING
NO. 06-9079**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

AUDIT SYSTEM

Defendant

**ADVERSARY PROCEEDING
NO. 06-9080**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

CREDIT CLEARING HOUSE

Defendant

**ADVERSARY PROCEEDING
NO. 06-9081**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

CERTEGY PAYMENT RECOVERY
SERVICE

Defendant

**ADVERSARY PROCEEDING
NO. 06-9082**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

CLEAR CHECK

Defendant

**ADVERSARY PROCEEDING
NO. 06-9083**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

LEE'S

Defendant

**ADVERSARY PROCEEDING
NO. 06-9085**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

NEWCOMB OIL

Defendant

**ADVERSARY PROCEEDING
NO. 06-9086**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

ALLIED INTERSTATE INC.

Defendant

**ADVERSARY PROCEEDING
NO. 06-9087**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

SECURITY CHECK

Defendant

**ADVERSARY PROCEEDING
NO. 06-9088**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

GWINNETT CO. WATER RESOURCES

Defendant

**ADVERSARY PROCEEDING
NO. 06-9084**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

MICHAEL FOPPIANO
LUIS SOTO

Defendants

**ADVERSARY PROCEEDING
NO. 06-9073**

TIMOTHY AUGUSTUS WARD
CARRIE WARD

Plaintiffs

v.

WALTON EMC

Defendant

**ADVERSARY PROCEEDING
NO. 06-9071**

DISMISSAL ORDER

On September 5, 2006, Plaintiff filed¹ *pro se*² motions to voluntarily dismiss the following adversary proceedings:

Ward v. Claims Accounting	06-9070
Ward v. U-Drive Used Cars	06-9072
Ward v. Speedway	06-9074
Ward v. Houchens Industries	06-9075
Ward v. Plaza 94	06-9076
Ward v. Anthony Kush	06-9077
Ward v. Rentway	06-9078
Ward v. PVK Enterprises	06-9079
Ward v. Audit System	06-9080
Ward v. Credit Clearing House	06-9081
Ward v. Certegy Payment Recover Service	06-9082
Ward v. Clear Check	06-9083
Ward v. Lee's	06-9085

¹ By email dated September 4, 2006, Debtor Timothy Augustus Ward transmitted to the "Chambers" email-box several pleadings intended for filing in the main bankruptcy case and in the several adversary proceedings filed by Debtors. Under Bankruptcy Rule 5005, if a paper intended to be filed is erroneously delivered to, among others, a bankruptcy judge, the recipient should note the date of receipt and transmit the document to the clerk for filing. The document is filed effective the date it is filed, not the date it is erroneously delivery to someone other than the Clerk.

² As Mr. Ward does not appear to be an attorney, he is not permitted to represent his wife and joint debtor, Carrie Ward. As Ms. Ward did not sign the motion and does not appear to be the email account holder, this motion will be considered as if filed by Mr. Ward only.

Ward v. Newcomb Oil	06-9086
Ward v. Allied Interstate, Inc.	06-9087
Ward v. Security Check	06-9088

Each of these adversary proceedings was commenced by the filing of a one-paragraph complaint to “inforce (sic) the Automatic Stay.” No other factual or legal allegations are set forth in any of the complaints. Debtors’ Chapter 7 bankruptcy case commenced July 31, 2006. Each of these adversary proceedings were filed August 21, 2006. None included a request for hearing. The hearings in the adversary proceedings were set *sua sponte*.

Within the previous twelve months, Debtors have been debtors in a Chapter 7 case filed in the Western District of Kentucky, Case No. 06-30648, filed March 23, 2006 and dismissed May 9, 2006. Therefore, Debtors are subject to 11 U.S.C. §362(c)(3), which provides that, where a debtor has one prior case within the previous twelve months, the automatic stay terminates 30 days after the date the petition is filed unless the debtor seeks and obtains an order extending the stay. The hearing on such a motion must be concluded before expiration of the first 30 days after the filing of the petition. Even if the above 16 adversary proceeding could be construed as motions to extend the stay,³ no hearing was sought by Debtors or concluded within 30 days after the petition was filed. Therefore, the automatic stay terminated as to all creditors August 30, 2006.⁴

³ A motion to extend the automatic stay should be filed as a contested matter in the main case, rather than as an adversary proceeding.

⁴ Although the automatic stay has terminated, Debtors may seek reimposition of the stay by filing a motion under §105.

Debtor's motions to voluntarily dismiss these adversary proceedings were not signed. Because the motions were not filed electronically, the provisions in the local rules regarding signing electronic documents do not apply. Bankruptcy Rule 9011(a) provides:

(a) Signing of papers

Every petition, pleading, written motion, and other paper, except a list, schedule, or statement, or amendments thereto, shall be signed by at least one attorney of record in the attorney's individual name. A party who is not represented by an attorney shall sign all papers. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

Striking the motions is unnecessary, however, because, as set forth above, Debtors are not entitled to the relief sought in the complaint. The automatic stay terminated August 30, 2006, in accordance with the provisions of §362(c)(3).

In addition to the 16 adversary proceedings listed above, Debtors filed the following three adversary proceedings in which the text of the complaint is identical to that in the above 16 complaints.

Ward v. Gwinnett Co. Water Resources	06-9084
Ward v. Foppiano	06-9073
Ward v. Walton EMC	06-9071

For the same reasons set forth above, i.e. that the automatic stay terminated August 30, 2006, the complaints in the above three adversary proceedings fail to state a claim for relief that can be granted and should be dismissed. Accordingly, it is hereby

ORDERED that the following 19 adversary proceedings are *dismissed*:

Ward v. Claims Accounting	06-9070
Ward v. U-Drive Used Cars	06-9072
Ward v. Speedway	06-9074
Ward v. Houchens Industries	06-9075
Ward v. Plaza 94	06-9076
Ward v. Anthony Kush	06-9077
Ward v. Rentway	06-9078
Ward v. PVK Enterprises	06-9079
Ward v. Audit System	06-9080
Ward v. Credit Clearing House	06-9081
Ward v. Certegy Payment Recover Service	06-9082
Ward v. Clear Check	06-9083
Ward v. Lee's	06-9085
Ward v. Newcomb Oil	06-9086
Ward v. Allied Interstate, Inc.	06-9087
Ward v. Security Check	06-9088
Ward v. Gwinnett Co. Water Resources	06-9084
Ward v. Foppiano	06-9073
Ward v. Walton EMC	06-9071

The Clerk, U.S. Bankruptcy Court, is directed to serve a copy of this order upon
Plaintiffs, Defendants, Defendants' attorneys, and the Chapter 7 Trustee.

IT IS SO ORDERED, this the 6th day of September, 2006.

A handwritten signature in cursive script, appearing to read "Margaret H. Murphy", written over a horizontal line.

MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE