

Dated: February 20, 2024
The following is ORDERED:



Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In re:

Chauniece Deshae Washington,
Debtor.

Case No. 23-25351
Chapter 13

**ORDER DENYING MOTION FOR
REFUND OF COURT FEES**

This case came before Court on February 6, 2024, at 10:00 a.m., on Marathon Management, LLC's ("Creditor's") *Motion for Refund of Court Fees*. (ECF No. 23). The issue before the Court is whether the Creditor may seek a refund of the \$199 fee which it paid for its motion for relief from stay, filed on the same day the Chapter 13 case was dismissed. For the reasons stated below, the Court denies Creditor's Motion for Refund of Court Fees.

On October 27, 2023, Chauniece Deshae Washington ("Debtor") filed her Chapter 13 petition. On December 28, 2023, the Chapter 13 trustee filed a *Motion to Dismiss Due to Failure to Provide a Confirmation Plan*, with a hearing date of January 23, 2024, at 9 a.m. (ECF No. 18). On January 23, 2024, Creditor filed a *Motion for Relief from Stay*, and paid the filing fee of \$199.00. (ECF No. 21). Debtor's Chapter 13 case was dismissed on January 23, 2024, on the

Trustee's pending motion to dismiss. The *Order Dismissing the Case* was entered on January 24, 2023. (ECF No. 22).

On January 26, 2024, Creditor filed a Motion for Refund of Court Fees, seeking a refund of the \$199 motion for relief from stay fee. (ECF No. 23). Creditors seeks a refund of the fee because the Chapter 13 case was dismissed. Creditor's motion for refund of fees was called for hearing on February 6, 2024, at 10 a.m.¹

Section 1930 of title 28 governs bankruptcy filing fees.² Subsection 1930(b) authorizes the Judicial Conference of the United States to establish fees in cases under title 11, and consequently the *Bankruptcy Court Miscellaneous Fee Schedule* outlines the fees to be charged by the bankruptcy courts for various matters. Paragraph 19 of the *Bankruptcy Miscellaneous Fee Schedule* sets forth the amount of filing fee for a motion for relief from stay. The amount of the fee is adjusted periodically.³

As stated in the *Bankruptcy Fee Compendium III*, "The Judicial Conference prohibits refunding the fees due upon filing. The Conference prohibits the clerk from refunding the fees even if the party filed the case in error, and even if the court dismisses the case or proceeding. Nevertheless, the clerk must refund any fee collected without authority."⁴ A fee refund may be

¹ At the hearing, the Court learned that Creditor's counsel did not communicate with Debtor's counsel or the Chapter 13 Trustee's Office regarding the status of the motion to dismiss the Chapter 13 case.

² See 28 U.S.C. 1930

³ <https://www.uscourts.gov/services-forms/fees/bankruptcy-court-miscellaneous-fee-schedule>

⁴ Bankruptcy Fee Compendium III (June 1, 2014, Edition), ¶ 8, p. 16; <https://www.ohnb.uscourts.gov/file-list/fee-compendium-0> [https://perma.cc/8YNV-5NZ2].

possible only if the fee was collected without authority, or the fee was collected due to administrative error on the part of the Clerk Office.⁵

There is no legal support for refunding the \$199 filing fee for Creditor's motion for relief from stay because the case is dismissed.⁶ Accordingly, it is **ORDERED:**

Motion for Refund of Court Fees is DENIED.

Cc: Creditor, Marathon Management LLC
Creditor's attorney, Lisa A. Zacharias
Debtor, Chauniece Deshae Washington
Debtor's attorney, Jimmy E. McElroy
Chapter 13 Trustee, Sylvia F. Brown
All creditors on matrix

⁵ *In re Butchart*, No. 19-33243, 2023 WL 4414417, at *2 (Bankr. N.D. Ohio July 7, 2023) (discussing the denial of a motion for refund of a filing fee).

⁶ The Court notes that the motion to dismiss Debtor's Chapter 13 case was pending since December 28, 2023, and Creditor made no inquiry regarding the status of the motion to dismiss before filing its motion for relief from stay (which could have prevented the filing of the motion for relief from stay).