

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

In re:

JOYCE M. MIRABILE,

Case No. 6:09-bk-04687-ABB

Chapter 7

Debtor.

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**ORDER**

This matter came before the Court on the Motion for Relief from Stay (Doc. No. 12) (“Motion”) filed by Paul Mirabile, as Personal Representative of the Estate of John L. Mirabile (“Movant”), requesting relief from the automatic stay of 11 U.S.C. Section 362(a) to enforce its Florida State Court judgment against the Debtor Joyce M. Mirabile. The Debtor filed an Objection (Doc. Nos. 19, 21). Hearings were held on June 15, 2009 and August 24, 2009 at which the Debtor, her counsel, and counsel for the Movant appeared.

Movant requests relief from the automatic stay to: (i) deposit a check for \$264.40 obtained, but not cashed, from the Debtor’s employer through a writ of garnishment; (ii) continue the garnishment against the Debtor; (iii) pursue a claim against the creditor Conquest Services, Inc. in Florida State Court; and (iv) pursue an equitable lien and/or constructive trust claim against the Debtor in Florida State Court. The Motion reiterates the allegations made in Movant’s Objection to the Debtor’s claim of exemptions, Motion to Dismiss pursuant to 11 U.S.C. Section 707(b), adversary proceeding Complaint, and the Summary Judgment Motion on its Complaint. Movant has not established a basis for relief from the automatic stay pursuant to 11 U.S.C. 362(d)(1) or (d)(2).

Movant's Motion is due to be denied and Movant shall be directed to turn over the garnishment check to the Chapter 7 Trustee Robert E. Thomas.

Accordingly, it is

**ORDERED, ADJUDGED and DECREED** that the Movant's Motion (Doc. No. 12) is hereby **DENIED**; and it is further

**ORDERED, ADJUDGED and DECREED** that Movant is hereby directed to turn over to the Chapter 7 Trustee Robert E. Thomas forthwith check number 217168 in the amount of \$264.40 issued by the Debtor's employer Earl K. Wood, Tax Collector.

Dated this 4th day of November, 2009.

/s/ Arthur B. Briskman  
ARTHUR B. BRISKMAN  
United States Bankruptcy Judge