

**This opinion is not intended for publication**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

In re:	)	Case No. 03-10733
	)	
SHEILA ANDREA BLADE,	)	Chapter 13
	)	
Debtor.	)	Judge Arthur I. Harris

ORDER DENYING MOTION TO DISMISS  
WITHOUT PREJUDICE

Before the Court is the chapter 13 trustee's motion to dismiss this case (Docket # 12). For the reasons that follow, the motion to dismiss is denied without prejudice.

On July 2, 2002, the debtor filed a chapter 7 case (Case No. 02-17148). On October 11, 2002, a complaint to determine the dischargeability of debt was filed in that case, and on October 24, 2002, the debtor was granted a chapter 7 discharge. On January 21, 2003, while the chapter 7 case remained open awaiting resolution of the dischargeability proceeding, the debtor filed this chapter 13 case. On March 31, 2003, the chapter 13 trustee moved to dismiss the chapter 13 case because the debtor had two cases pending simultaneously and because the debtor had failed to fund her chapter 13 plan. This second issue is apparently moot because the debtor is now current in funding.

The Court finds there is no *per se* bar based upon simultaneous cases pending, for the reasons stated by Judge Speer in *In re Strohscher*, 278 B.R. 432 (Bankr. N.D. Ohio 2002). The Court believes that concerns about abuse can be

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handled without a *per se* rule. As Judge Speer explained in *Strohscher*,

In summation, given the lack of any statutory prohibition against a debtor maintaining two simultaneous bankruptcy cases, together with Bankruptcy Rule 1015 which specifically contemplates a debtor maintaining more than one bankruptcy case, this Court declines to adopt a *per se* rule against such an act. However, this Court, as it does with all debtors who file in a short period of time more than one bankruptcy case, will closely scrutinize the subsequent case so as to ensure that the debtor is not abusing the bankruptcy process.

278 B.R. at 437.

Since the chapter 13 trustee's motion relies on a *per se* bar and does not include specific allegations of bad faith or other cause for dismissal under § 1307(c), the motion is denied, without prejudice.

IT IS SO ORDERED.

/s/ Arthur I. Harris                      08/14/2003  
Arthur I. Harris  
U.S. Bankruptcy Judge