

Judge Marc L. Barreca
Chapter 11
Hearing: March 21, 2019 @ 9:30 a.m.
Response Date: March 14, 2019

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re: TIMOTHY D. EYMAN, Debtors.	Case #18-14536 MOTION TO DISMISS CASE, with DECLARATION OF TIMOTHY EYMAN, NOTICE OF HEARING, and PROOF OF SERVICE
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NOTICE OF HEARING and PROOF OF SERVICE

PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the clerk is directed to note this issue on the appropriate calendar.

Calendar Date and Time: Thursday, March 21, 2019, at 9:30 AM

Response Date: March 14, 2019
Hearing Location: Courtroom 7106
700 Stewart St. 7th Floor, Seattle, Washington 98101

If no responses are filed by the Response Date, the court may enter an order granting the requested relief without further notice or conducting the hearing set forth above. Copies of this Motion, Declaration, and the Proposed Order have been mailed on this date to all parties on the attached mailing matrix or served via CM/ECF electronic mail.

DATED this 28th day of February, 2019.

/s/ Larry B. Feinstein

Larry B. Feinstein WSBA # 6074
Kathryn Scordato, WSBA #41922
Attorneys for Debtor

1 **MOTION**

2 COMES NOW the Debtor, Timothy D. Eyman, by and through its attorneys
3 of record, Vortman & Feinstein, and hereby requests that its Chapter 11 case be
4 dismissed pursuant to 11 U.S.C. §1112(b)(1). Section 1112(b)(1) states that the
5 Court may dismiss a debtor's Chapter 11 case if it is in the best interests of the
6 creditors of the estate. The Debtor asserts that dismissal is in the creditors' best
7 interests.

8 The Debtor filed these proceedings on November 28, 2018 (Dkt #1). His
9 petition listed two creditors: one was his former attorneys, the other is the State of
10 Washington. The State has asserted substantial disputed unliquidated claims
11 against the Debtor arising from *State of Washington v. Tim Eyman, et al.* (Thurston
12 County Superior Court case no. 17-2-01546-34) and *State v. Tougher to Raise*
13 *Taxes, et al.* (Thurston County Superior Court case no. 16-2-03891-34). Those
14 cases are still pending. After notice and hearing, the Court entered a Comfort
15 Order on Exemption from Automatic Stay on January 8, 2019 (Dkt. #38). They are
16 proceeding according to their trial schedule. Those cases will not be brought to
17 trial no earlier than 2020 and maybe well after that, as there are pending motions
18 to amend the complaint(s) which will push trial even further into the future. After
19 due consideration, and because the amount and nature of any claims that might
20 be asserted are years out, the Debtor wishes for his bankruptcy to be dismissed
21 at this time

22 Until such time as the disputed unliquidated claims are reduced to
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1 judgment, if any, the benefits of maintaining the expense of a Chapter 11
2 proceeding are outweighed by practical realities. The Debtor would not be able to
3 propose a feasible plan until the total amount owed to the State of Washington is
4 determined and liquidated. If either party appeals a decision, it will be many years
5 down the road before a final allowed claim could be dealt with and structured in a
6 bankruptcy proceeding.

7 The current bankruptcy filing has not slowed the legal expenses incurred by
8 the Debtor but has actually increased them with the addition of US Trustee fees
9 and bankruptcy counsel's fees. Those fees and expenses would lessen the
10 eventual amounts available for distribution to his creditors. The Debtor must devote
11 his limited resources to where it will do the most good. It is in the creditors' best
12 interest for this bankruptcy to be dismissed and the pending litigation resolved.

13 For the foregoing reason, the Chapter 11 case of Timothy Eyman should be
14 dismissed pursuant to 11 U.S.C. §1112(b)(1).

15 DATED this 28th day of February, 2019.

16 /s/ Larry B. Feinstein
17 Larry B. Feinstein WSBA # 6074
18 Kathryn Scordato, WSBA #41922
19 Attorneys for Debtor

20 [Declaration is on the following page.]
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DECLARATION OF TIMOTHY EYMAN

I, Timothy Eyman, duly sworn upon oath under penalty of perjury under the laws of the State of Washington, deposes and says as follows:

I am the Debtor in this case, I am over the age of 18, and I am competent to testify regarding the matters discussed herein based upon my personal knowledge. All of the facts contained in the above motion are true and correct to the best of my knowledge and belief, and said facts are incorporated into this Declaration by reference. I hereby request that this Chapter 11 case be dismissed.

DATED this 28th day of February, 2019.

/s/ Timothy Eyman
Timothy Eyman, Debtor