**So Ordered.**

**Dated: June 13th, 2024**

Frederick P. Corbit
**Frederick P. Corbit**
**Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT**
**EASTERN DISTRICT OF WASHINGTON**

| | |
|---|---|
| In re:<br><br>RICHARD RON WELLS,<br><br>Debtor. | Case No. 23-01058-FPC13<br><br>**ORDER GRANTING MOTION TO CONTINUE ADMINISTRATION OF BANKRUPTCY CASE** |

## INTRODUCTION

Richard Wells ("Debtor") commenced this case by filing a voluntary petition under chapter 13[1] and a proposed plan to pay all creditors in full, but he died before the plan was confirmed. Debtor's counsel[2] seeks to continue the administration of the chapter 13 with the assistance of the probate estate's court-appointed personal representative. Only one creditor objects to the continued administration of this case. To determine whether the Court should allow the continued administration of the bankruptcy case, the Court must answer: (1) does

[1] Unless specified otherwise, all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532 and all "Rule" references are to the Federal Rules of Bankruptcy Procedure.
[2]Debtor's counsel, Rebecca Sheppard, is an experienced bankruptcy attorney who has successfully and efficiently represented many Chapter 13 debtors before this Court.

this Court have discretion to continue to administer the bankruptcy case after the chapter 13 debtor's death; and (2) if this Court has discretion to continue this case, is further administration possible and in the best interest of the parties? Based on the facts and law set forth below, the Court answers the questions in the affirmative.

**FACTS**

The Debtor commenced this case on August 23, 2023, by filing a voluntary petition under Chapter 13. (ECF No. 1) On September 26, 2024, the Debtor filed a chapter 13 plan (the "Plan") that proposed monthly payments of $1,300 for "36 or fewer months." (ECF No. 24, p.1) In the nonstandard provisions of the Plan, Debtor proposed selling two residential properties within eighteen months and using the proceeds to fund the Plan. (ECF No. 24 at pp. 7-8)

On October 31, 2023, Creditor Ridpath Penthouse LLC ("Ridpath") filed a proof of claim in the amount of $229,266.20 (Claim No. 16-1). In all, thirteen creditors filed claims in the bankruptcy case, totaling approximately $1.8 million. The deadline for filing claims in the bankruptcy case was November 1, 2023.

On November 6, 2023, Debtor's counsel filed an application for an order approving the employment of real estate attorney Kyle Nolte. (ECF No. 50) The application described Mr. Nolte as "an experienced attorney whose practice focuses on real estate transactions and litigation." (ECF No. 50) The application

indicated that "Debtor requires an experienced real estate attorney to evaluate his purported grant of interest in real property/assist in recovering possession of the property for resale in [Chapter 13]." (ECF No. 50) The Court entered an order approving Mr. Nolte's employment as "special counsel (real estate attorney)." (ECF No. 52)

Debtor died February 12, 2024. (ECF No. 71-1) The Plan had not been confirmed.

On March 15, 2024, Debtor's counsel moved for an order approving the employment of the Law Office of Richard Perednia, PS, Inc., as personal representative/counsel for the Debtor. (ECF No. 69) The application stated: "Debtor is deceased. Richard Perednia has been appointed as Personal Representative and he has hired his partner, Dianna Evans, as attorney for the estate." (ECF No. 69) Additionally, the application asserted that the requested professional services are "services [consistent] with those of a Personal Representative as well as legal services on behalf of the decedent's estate, many of which will coincide with issues in the bankruptcy estate." (ECF No. 69) The Court entered an order approving "the employment of the Law Office of Richard Perednia, PS, Inc. as Personal Representative and Counsel for Probate Estate…." (ECF No. 74)

On March 16, 2024, Debtor's counsel moved for an order approving the continued administration of Debtor's chapter 13 bankruptcy case (the "Motion"). (ECF No. 71) The Motion explained that on the petition date, the case was "laden with issues impeding confirmation," including unfiled state and federal tax returns, a dispute related to Debtor's membership interest in Ridpath, and issues related to ownership of real property. (ECF No. 71 at p.3) Counsel asserted that prior to his death, Debtor "accomplished a majority of the tasks required to achieve confirmation of his plan." (ECF No. 71 at p.3) The Motion also stated that special counsel had completed "a large portion of the work for which they were employed and the tax returns have all been prepared…." (ECF No. 71 at p.3) The Motion proposed that Mr. Perednia, the appointed personal representative "step into the shoes of the debtor for the purposes of signing tax returns, liquidating assets and funding the plan to completion." (ECF No. 71 at p.3)

In support of the Motion, Debtor's counsel filed a declaration from Personal Representative Richard Perednia. (ECF No. 80) Mr. Perednia asserted that he was appointed Personal Representative in the probate of Debtor's estate.[3] (ECF No. 80) Additionally, Mr. Perednia asserted that the legal work performed in the bankruptcy case and the state court probate case would not be duplicative and continuing the bankruptcy case would be in the best interest of all parties:

[3] Spokane County Superior Court Case No. 24-0055032.

> If the bankruptcy case proceeds, I will defer to the professionals employed in the case to complete the work they have already started—i.e., the preparation and filing of the debtor's complex tax returns, the ejectment of an occupant of real property prior to its liquidation, and the litigation of the claim asserted by Ridpath Penthouse—the chief outstanding issues that must be resolved in either the bankruptcy or probate proceeding. In my professional opinion, most of the debtor's unresolved matters can be disposed of far more efficiently in Bankruptcy Court than in Superior Court where litigation can take months or even years to complete.
>
> I believe continuation of the bankruptcy case would be in the best interest of not only the creditors but also the heir of Mr. Wells' probate estate. There are advantages available in bankruptcy, such as the abatement of tax penalties, which will have a significant impact on the solvency of the estate. Further, continued administration of the bankruptcy case may result in a *reduction* of the overall professional fees; it would obviate the need to duplicate work that has already been done and for which the professionals will have a claim in the probate estate.

(ECF No. 80) (emphasis in original).

Ridpath, the sole creditor objecting to the Motion, argued that because Debtor died before Plan confirmation, the Court was required to dismiss the case. (ECF No. 76)

On May 8, 2024, two adversary cases were filed in this Court. In the first, Ridpath filed a complaint requesting a declaratory judgment determining that Debtor's bankruptcy petition affected his ownership in Ridpath under an operating agreement, and that Debtor's bankruptcy case does not prevent Ridpath from liquidating Ridpath assets. (ECF No. 85; Adv. No. 24-800009) The second adversary was filed by Mr. Perednia, Personal Representative of Debtor's probate

estate, objecting to Ridpath's Claim 16-1 and seeking a declaratory judgment that Ridpath is not entitled to payment from Debtor's estate. (ECF No. 86; Adv. No. 24-800010)

On May 14, 2024, Debtor's counsel filed a modification to the Plan with a certificate of no adverse affect. (ECF No. 89) The modification asserted in part:

> As provided for in the originally filed plan (ECF No. 24), this is a liquidation plan in which the debtor proposes to sell real property to fund the plan at 100%.
>
> This modification is made to clarify that upon the closing of the sales of real property commonly known as 23215 E Blanchard Rd., Newport, WA 99156 and 2310 W 12th Ave., Spokane, WA 99224, Debtor will remit all proceeds to the chapter 13 trustee to fund the plan. Pursuant to the Marketing Plan (ECF No. 87), the properties will be marketed as soon as practicable.

(ECF No. 89) In other words, Debtor's counsel asserts that completion of the Plan will not require monthly payments from Debtor, and instead, the property sales will fully fund the Plan.

On May 16, 2024, the Court held a hearing to consider Debtor's Motion. (ECF No. 90) At the hearing, the Court heard argument of counsel related to the Motion and continued the plan confirmation date to July 17, 2024. (ECF No. 91)

## ANALYSIS

The Bankruptcy Code and Rules do not provide an explicit mandate for how or whether a bankruptcy court should proceed with a Chapter 13 case after the debtor dies. However, two Bankruptcy Rules guide the determination of whether

this Court should allow Debtor's chapter 13 case to continue after his death. First, Rule 1001 provides that the bankruptcy rules should be "construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding." Fed. R. Bankr. P. 1001. Second, Rule 1016 identifies the standards the court applies when deciding whether to dismiss or proceed with a case under chapters 11, 12, or 13 after a debtor's death. Specifically, Rule 1016 permits the continuation of a chapter 13 bankruptcy case after the debtor dies if further administration is possible and in the best interests of the parties:

> If a reorganization … or [an] individual's debt adjustment case is pending under . . . chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.

Fed. R. Bankr. P. 1016. Although no published Ninth Circuit cases bind this Court's interpretation of the scope of Rule 1016, bankruptcy courts across the country have interpreted the Rule in ways that produce dramatically different results. As one bankruptcy court observed, "courts have interpreted [Rule 1016] in markedly different, but plausible, ways." *In re Hoover*, 2015 WL 1407241, at *2–3

(Bankr. N.D. Cal. 2015) (collecting cases analyzing whether Rule 1016 authorizes court to grant hardship discharge after chapter 13 debtor dies).[4]

*1. Rule 1016 grants this Court discretion to continue the proceedings despite Debtor's death.*

Generally, courts apply the "traditional tools of statutory construction" to interpret the federal rules. *Republic of Ecuador v. Mackay*, 742 F.3d 860, 864 (9th Cir. 2014). Therefore, in the interpretation of a rule, guidance in how to interpret a statute is useful. "The first step in construing the meaning of a statute is to determine whether the language at issue has a plain meaning." *McDonald v. Sun Oil Co.*, 548 F.3d 774, 780 (9th Cir.2008). "When interpreting a statute, words and phrases must not be read in isolation, but with an eye toward the 'purpose and context of the statute.'" *United States v. Petri*, 731 F.3d 833, 839 (9th Cir.2013) (quoting *Dolan v. U.S. Postal Serv.*, 546 U.S. 481, 486, 126 S.Ct. 1252, 163 L.Ed.2d 1079 (2006)). An interpretation that gives effect to every clause is generally preferable to one that does not. *Cf. Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 133 S.Ct. 1166, 1177 (2013).

In interpreting the scope of Rule 1016, the Court begins with the plain text of the rule. *Lamie v. United States Tr.*, 540 U.S. 526, 534, 124 S.Ct. 1023, 157

[4] Unpublished Ninth Circuit decisions issued on or after January 1, 2007, may be cited as persuasive authority pursuant to Ninth Circuit 36-3(b). *See Nuh Nuhoc Loi v. Scribner*, 671 F. Supp. 2d 1189, 1201 n. 10 (S.D. Cal. 2009) ("Although still not binding precedent, unpublished decisions have persuasive value and indicate how the Ninth Circuit applies binding authority.").

L.Ed.2d 1024 (2004). "[W]hen the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." *Id.*

The text of Rule 1016 is plain and unambiguous. The plain language indicates that after a debtor dies the case "may" be dismissed, or under certain circumstances, the case "may proceed" and be concluded as though the death had not occurred. As a result, the Rule grants this Court discretion to determine if the circumstances described in the Rule exist in the present case.

Additionally, most bankruptcy courts[5] agree that Rule 1016 grants the court discretion to determine whether to continue a chapter 13 bankruptcy case after a debtor dies. *See e.g., In re Sanford*, 619 B.R. 380, 393 (Bankr. E.D. Mich. 2020) ("Rule 1016 expressly reserves to the court the discretion to decide whether to continue a chapter 13 case at all or just dismiss it if the debtor dies during the pendency of the case."); *In re Ward*, 652 B.R. 250, 256-57 (Bankr. D.S.C. 2023)

---

[5] A Ninth Circuit panel explained a typical method of analyzing a novel legal issue in the absence of binding precedent:

> Federal courts today do follow some common law traditions. When ruling on a novel issue of law, they will generally consider how other courts have ruled on the same issue. This consideration will not be limited to courts at the same or higher level, or even to courts within the same system of sovereignty. Federal courts of appeals will cite decisions of district courts, even those in other circuits; the Supreme Court may cite the decisions of the inferior courts … or those of the state courts. It is not unusual to cite the decisions of courts in foreign jurisdictions … and even … to non-case authorities, such as treatises and law review articles.

*Hart v. Massanari*, 266 F.3d 1155, 1169–70 (9th Cir. 2001) (citations omitted.)

(bankruptcy court has "significant discretion" to determine if further administration is possible and in the best interest of the parties under Rule 1016). While these decisions are not binding on this Court, the reasoning is persuasive and supported by the plain language of Rule 1016.

2. *Upon a Chapter 13 debtor's death, no default presumption requires dismissal.*

Ridpath objected to the continuation of Debtor's chapter 13 bankruptcy case primarily because Debtor died prior to plan confirmation. Ridpath argues that when a chapter 13 debtor dies, the default presumption is that the case should be dismissed. For this proposition, Ridpath relies on *In Re Waring*, 555 B.R.754 (Bankr. D. Colo. 2016), a case from a Colorado bankruptcy court, which Ridpath acknowledged is not binding precedent.

In *Waring*, the court dismissed a joint chapter 13 case because the debtor-husband died 26 days after filing the petition. The *Waring* court declared that the "normal default presumption upon death is dismissal," and cited the Advisory Committee Note accompanying Rule 1016 that provides in part: "In a . . . chapter 13 individual's debt adjustment case, the likelihood is that the case will be dismissed." *Id.* at 761. The *Waring* court reasoned that Chapter 13 cases require "the active participation of a debtor at all stages and for years" and therefore the "Chapter 13 statutory framework strongly suggests that a debtor who dies very

early in a case and before confirmation of a Plan presumptively should not be able to proceed." *Id.* at 764.

However, several bankruptcy courts in different jurisdictions have decided the opposite is true: a chapter 13 debtor's death does *not* trigger a presumption of dismissal, and the determination of how and whether to continue the case is left to the discretion of the trial court. *See, e.g., In re Perkins,* 381 B.R. 530, 536–37 (Bankr. S.D. Ill. 2007) (denying Trustee's motion to dismiss Chapter 13 case after debtor's death); *In re Sanford,* 619 B.R. at 387 ("text of Rule 1016 makes clear that a bankruptcy case … does not automatically end if the debtor dies while the case is pending"); *In re Hoover,* at *3 (a "fair reading of Rule 1016" includes the continuation of the case and a potential grant of a hardship discharge).

For example, the *Perkins* court concluded that the default presumption is death does not abate a bankruptcy proceeding, and the bankruptcy court should analyze if the plan can still be funded despite debtor's death:

> Bankruptcy Rule 1016 is consistent with the Bankruptcy Code as it follows the general presumption that the death of the debtor shall not abate the bankruptcy proceeding, but provides for the dismissal of a Chapter 13 case at the discretion of the bankruptcy court. The Advisory Committee Note states that "[i]n a chapter 11 reorganization case or chapter 13 individual's debt adjustment case, the likelihood is that the case will be dismissed." This dismissal is not for the sole reason that the debtor has died, but because, as a practical matter, the funding of the plan is based on the debtor's submission of future earnings. Once the debtor has died, further administration may not be possible due to an inability to fund the plan.

*Perkins*, 381 B.R. at 536–37. The *Perkins* reasoning—that reserves discretion in the bankruptcy court to decide each case according to the facts presented—is persuasive to this Court.[6] Instead of drawing a seemingly arbitrary distinction, the *Perkins* reasoning requires the bankruptcy court to examine the facts in each case to determine if the plan can be consummated despite the debtor's death. Accordingly, this Court adopts the reasoning of *Perkins* and rejects Ridpath's invitation to find that debtor's death creates a default presumption that the case should be dismissed.

3. *"Further administration" of this case is possible.*

A bankruptcy court's determination under Rule 1016 whether "further administration" of a deceased debtor's Chapter 13 case is both possible and in the best interest of the parties is a fact-specific inquiry, which the Court must

---

[6] *Perkins* relied upon the legislative history of § 541:

> [I]f the debtor dies during the case, only property exempted from property of the estate or acquired by the debtor after the commencement of the case and not included as property of the estate will be available to the representative of the debtor's probate estate. The bankruptcy proceeding will continue in rem with respect to property of the [e]state, and the discharge will apply in personam to relieve the debtor, and thus his probate representative, of liability for dischargeable debts.

*Id.* at 534 (citing H.R.Rep. No. 95–595, 95th Cong., 1st Sess., at 367–68 (1977); S.Rep. No. 95–989, 95th Cong., 2d Sess., at 82–3 (1978), U.S.Code Cong. & Admin.News 1978, pp. 5963, 6322–24, 5787, 5868–69.).

determine on a case-by-case basis, regardless of a creditor's objection. *Ward*, 652 B.R. at 256.

Under Rule 1016, the court may continue a case if "further administration" is possible in this chapter 13 case. The term "further administration" is not defined by the Code or the Rules and caselaw has failed to produce a working definition or criteria. *See In re Sanford*, 619 B.R. at 388 (collecting cases applying "further administration" to chapter 13 cases after a debtor's death).

Bankruptcy courts have interpreted "further administration" in a variety of ways. Some courts have found that "further administration" includes a request for a hardship discharge after a chapter 13 debtor dies. *See e.g., In re Shorter*, 544 B.R. 654 (Bankr. E.D. Ark. 2015) ("majority view is that the grant of hardship discharge … is an acceptable way to further administer a case under Rule 1016"); *In re Inyard*, 532 B.R. 364 (Bankr. D. Kan. 2015) ("[T]he vast majority [of courts] hold that Rule 1016 does not, as a matter of law, bar a hardship discharge for a deceased debtor, even if no further payments are made after death."); *In re Hoover,* at *2 ("further administration of the case can encompass a hardship discharge when the equities in the case so merit").

By contrast, other courts have interpreted "continued administration" to exclude a hardship discharge. *See In re Hennessey*, No. 11–13793, 2013 WL 3939886, at *1 (Bankr. N.D. Ca. July 29, 2013) (Rule 1016 rule authorizes only

"dismissal or proceeding as if the debtor had not died"); *In re Miller*, 526 B.R. 857, 861 (D.Colo.2014) (hardship discharge was not contemplated by the drafters of Rule 1016); *In re Spiser*, 232 B.R. 669 (Bankr. N.D. Tex. 1999) (vacating order of conversion to chapter 7 and dismissing case).

And some courts have found that "continued administration" includes allowing the plan payments to continue. *See e.g., In re Shepherd*, 490 B.R. 338, 340 (Bankr.N.D.Ind.2013) ("[I]f the plan's funding is not dependent upon the debtor's earned income, it might be preferable ('in the best interests of the parties') to simply let whatever it was that had been set in motion continue."); *In re Terry*, 543 B.R. 173 (E.D. Pa. 2015) (affirming confirmation of plan in case of deceased debtor where debtor's monthly income not necessary to fund plan); *In re Lewis,* 2011 Bankr. LEXIS 1765 (Bankr. E.D.N.C. May 12, 2011) (debtor's executor proposed plan under which debtor's family would lease debtor's residence, providing income to pay creditors in full).

Ridpath urges the Court to adopt a narrow definition of "further administration" in Rule 1016 to mean mere "incidental acts," as defined by the South Carolina bankruptcy court in *Ward*, 652. B.R. at 257 (describing "further administration" as requesting discharge or making one final voluntary payment from a probate estate to fund a confirmed plan). If this Court adopted *Ward's* narrow definition, the case would have to be dismissed because even debtor's

counsel acknowledges while the bankruptcy case is "99% to the finish line," debtor's real property still must be marketed and sold to pay creditors. (ECF No. 90; 18:36-48) Selling of property and prosecuting and defending the adversary actions require more than mere incidental acts.

However, this Court finds the *Ward* court's narrow interpretation of "further administration" unpersuasive for several reasons. First, unlike this Court, the *Ward* court was constrained by previous opinions on the issue from within the same district. *See e.g., In re Swarthout*, C/A No. 09-06263-JW, slip op. at 2-3 (Bankr. D.S.C. Jan. 14, 2014). Second, the *Ward* opinion relied upon dicta that declared: "a personal representative of a debtor's estate cannot step into the shoes of a debtor to take actions that must [be] taken by the debtor personally in accordance with the Bankruptcy Code," including proposing a plan, converting a case and modifying a plan. *Id.* at 247 (quoting *Swarthout* at 2-3). But the authorities cited by *Swarthout* were simply trial court cases[7] from other jurisdictions that were decided on the facts according to each bankruptcy trial judge's discretion, and none of those cases is binding precedent in this Court.

[7] *Swarthout* cited as authority for the dicta: *Brown,* C/A No. 12-07082-jw, slip op. at 8 (Bankr. D.S.C. Mar. 25, 2013) (a personal representative of a deceased debtor's estate cannot file and obtain confirmation of a plan); *In re Shepherd,* 490 B.R. at 343 (personal representative may not substitute for the deceased debtor and modify the plan); *In re Martinez*, No. 13-50438-CAG, 2013 WL 6051203, at *1 (Bankr. W.D. Tex. Nov. 15, 2013) (citing *Shepherd,* 490 B.R. at 340-41) (No mechanism in bankruptcy law allows a probate estate to substitute for a deceased Chapter 13 debtor).

Significantly, other courts have found the *Ward* court's reasoning that no third party may be substituted for a deceased debtor contrary to the plain language of Rule 1016. *See In re Fogel*, 550 B.R. 532, 535–36 (D. Colo. 2015) ("If no party could ever act on behalf of a deceased debtor because there is no separate rule specifically providing for formal substitution, the provisions in Rule 1016 allowing a case to continue after the debtor's death would be meaningless.") (quoting *In re Kosinski*, 2015 WL 1177691, at *3 (Bankr.N.D.Ill. Mar. 5, 2015); *see also In re Inyard*, 532 B.R. at 368 ("some party must act on the Debtor's behalf, if the case is to continue as permitted by Rule 1016").

Ultimately, no cases cited in *Ward* or *Swarthout* are from the Ninth Circuit and thus the cases relied upon by Ridpath are not binding on this Court. Finally, because most courts agree that a determination of whether a Chapter 13 case should continue after the debtor's death is within the discretion of the bankruptcy court and should be made on a case-by-case basis, this Court finds the attempts of bankruptcy courts to create bright-line rules inappropriate and unpersuasive.[8]

[8] Even the South Carolina bankruptcy court applies different definitions of "further proceedings" under Rule 1016. *Compare In re Quint,* No. 11-04296-jw, 2012 WL 2370095 (Bankr. D.S.C. June 22, 2012) (after chapter 13 plan confirmed and debtor died, court authorized Special Administrator to "among other things, assume the Debtor's duties under the Bankruptcy Code and continue to administer the estate" including converting or seeking a discharge), *with In re Brown,* C/A No. 12-07082-jw (Bankr. D.S.C. Mar. 25, 2013) (denying plan confirmation after debtor's death in part because no legal authority authorizes a Special Administrator to obtain plan confirmation); *see also In re Vetter*, No. 11–03988–dd, slip op., at 5 (Bankr.D.S.C. May 7, 2012) ("upon the death of a debtor, counsel for a deceased debtor should ordinarily promptly

Unlike *Ward,* this Court is not constrained by an in-district decision interpreting the meaning of "further administration" in Rule 1016. Additionally, several bankruptcy courts have defined "further administration" significantly more expansively than the *Ward* court. For example, courts have held that a deceased Chapter 13 debtor's estate should not be denied relief simply because the person died, as long as another person can act on the debtor's behalf. *See* 9 COLLIER ON BANKRUPTCY ¶ 1016.04 (Alan N. Resnick & Henry J. Sommer, eds., 16th ed. 2024) ("[I]f a debtor has proposed a confirmable plan and that plan is still feasible after the death of the debtor, the court may allow the case to continue for the benefit of the debtor's estate.")[9]

Additionally, the *Hoover* bankruptcy court interpreted Rule 1016 to allow the "deceased debtor's representative to perform *any appropriate action* under the Bankruptcy Code that is in the best interest of the parties in the 'further administration' of the deceased debtor's case." *In re Hoover*, at *2–3 (emphasis

notify the Court of the debtor's death and file a motion for designation of an appropriate person to act on the debtor's behalf").

[9] *See e.g., In re Murray*, 36 C.B.C.2d 906, 199 B.R. 165 (Bankr. M.D. Tenn. 1996) (allowing parent to file chapter 13 petition on behalf of seven-year-old debtor); *In re Jones*, 97 B.R. 901 (Bankr. S.D. Ohio 1987) (permitting guardian for incompetent to file chapter 13 case); *In re Zawisza*, 73 B.R. 929 (Bankr. E.D. Pa. 1987) (refusing to dismiss a chapter 13 petition filed by an incompetent debtor's "next friend," noting that the debtor's duties under chapter 13 would be fulfilled by the guardian or next friend); *see also Wieczorek v. Woldt* (*In re Kjellsen*), 53 F.3d 944 (8th Cir. 1995) (where guardian appointed for an incompetent, permitting guardian to file a voluntary bankruptcy petition for ward).

added) (granting hardship discharge motion after debtor died before Plan payments completed).

This Court finds the reasoning in *Hoover* persuasive. As a result, this Court finds that Mr. Perednia, who has been appointed in the Superior Court probate matter and whose law office is employed in this case, may perform any appropriate action under the Code that is in the best interest of the parties in further administering the Chapter 13 bankruptcy case.

The facts in this case establish that Debtor's Plan is close to completion. Debtor's counsel has asserted that the proposed 100% plan does not require monthly payments, and instead, the Plan will be fully funded by the sale of two properties. As a result, further administration is possible and will not conflict with the Code. Moreover, construing the Rule to allow continuing the case in this court will ensure the "just, speedy, and inexpensive determination" of this case and thus is consistent with Rule 1001.

In this case, continuing to administer the case will include marketing and selling the real property, determining the competing liabilities related to Ridpath, and paying the professionals and creditors from the sale of the properties. The case will then conclude.

*4. Continuing the Case is in the Best Interest of the Parties*

The Plan at issue proposes to pay all creditors in full based on the sale of real property and the property can be sold despite Debtor's death. Thus, continuing the case administration will not detrimentally affect the creditors and instead, will benefit the creditors. Significantly, the Chapter 13 Trustee has not objected to continuing the case administration. As stated by Mr. Perednia, it is likely the creditors will receive payment more quickly if the bankruptcy court continues to administer the case.

The Court concludes that under the facts of this case, continuing to proceed with the estate's chapter 13 bankruptcy case is in accordance with Rules 1001 and Rule 1016 and is in the best interest of the parties. Unlike the state court probate action—in which the claim period has not yet expired—the parties in this bankruptcy case are well on their way to resolving creditor claims and providing a means for all claims to be paid in full. Additionally, the estate is represented by competent professionals—Debtor's counsel, a real estate attorney, and a court-appointed personal representative—who have presented a modified plan to fully pay creditors with the proceeds from the sale of property. In the bankruptcy case: (1) the time for filing claims has run; (2) an objection to the disputed claim of Ridpath has already been filed; (3) a procedure for the sale of Debtor's real property to pay all creditors in full has been presented to the Court; and (4) the

Court is familiar with many of the issues that must be resolved. As Debtor's counsel stated, "we can absolutely consummate the plan, do it as fast as possible given the now two adversaries that have been filed in this case, as opposed to going back to Superior Court and having to start from the very beginning with the filing of complaints, objections and other things." (ECF No. 90 at 18:48-19:15).

Also, proceeding to confirm and consummate the Plan in the bankruptcy court, which customarily resolves claims and approves real estate sales, will likely be more efficient and less costly than resolving a multitude of issues, possibly in a multitude of cases, in state court. Therefore, this Court finds that further administration of this bankruptcy case is possible and is in the best interest of the parties.

**ORDER**

Based on the foregoing, the Motion to Continue Administration of Case (ECF No. 71) is **GRANTED.**[10]

///End of Order///

[10] If a Chapter 13 Plan is not confirmed promptly, or if a confirmed plan is not consummated within a reasonable time, this Court is willing to revisit whether the case should be dismissed.