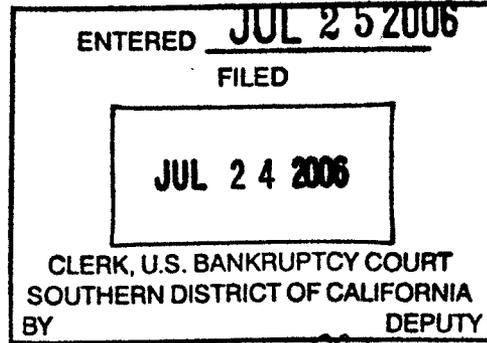


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1 **WRITTEN DECISION NOT FOR PUBLICATION**



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re) Case No. 05-05926-PBINV
)
FRANCIS J. LOPEZ,) ORDER ON SUGGESTION
) OF MOOTNESS
Alleged Debtor.)
_____)

On September 30, 2005, Alan Stanly commenced this case by filing an involuntary petition against alleged debtor, Francis Lopez. At some later date Northwest Florida Daily News joined in the petition. Lopez challenged the petition on the ground three petitioning creditors were necessary under Bankruptcy Code § 303(b)(1), as Lopez had 12 or more creditors. On June 26, 2006, the Court held a hearing on the parties' cross-motions for summary judgment on the issue of the number of holders of claims against Lopez for the purposes of § 303(b). The Court requested additional briefing and took the matter under submission.

On July 20, 2006, before the Court ruled on the motions, Richard Kipperman, who asserts a claim against Lopez in the

1 amount of \$30,968.57, filed a joinder in the involuntary
2 petition. On the same date Stanly filed a "Suggestion of
3 Mootness" contending:

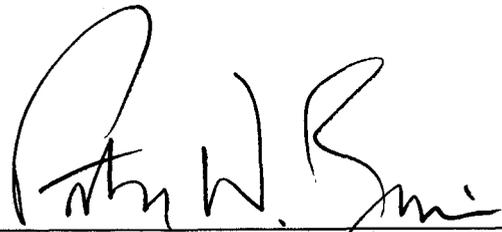
4 the issues pending before this Court in "Petition
5 Creditors' Motion for Summary Judgment (Bifurcated
6 Phase-1)" and the alleged-debtor's related cross-motion
7 (the "Motions") regarding whether there are a
8 sufficient number of creditors to support an
9 involuntary petition under 11 U.S.C. § 303 [sic] is now
10 moot as a result of "Richard Kipperman's joinder with
11 Mr. Stanly and Northwest Florida Daily News, there are
12 now three creditors, satisfying the requirements for
13 the filing of an involuntary bankruptcy petition
14 regardless of the number of creditors included in the
15 "Section 303" count.

16 Both the Suggestion of Mootness and Kipperman's Joinder were
17 served on Lopez on July 21 , 2006. Lopez has made no official
18 response.

19 The Court directs that Lopez file a response to the
20 Suggestion of Mootness, if any he has, no later than July 28,
21 2006. The Court will review such response, if any, and issue an
22 appropriate ruling.

23 IT IS SO ORDERED.

24 DATED: JUL 24 2006

25 
26 PETER W. BOWIE, Chief Judge
United States Bankruptcy Court