

# BANKRUPTCY <sup>UP</sup>DATE

## September 9, 2014

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### CLN Decision

You can use the link in the "Links" section below to view the following decision:

#### *In re Stanford*

**Issue:** Whether the automatic stay was terminated pursuant to 11 U.S.C. § 362(h) with respect to personal property identified in purported "lease agreements" entered into between the debtor and a creditor?

**Ruling:** Yes. Whether the agreements created leases or security interests under S.D.C.L. § 57A-1-203, the automatic stay had been terminated and the personal property identified in the agreements was no longer property of the bankruptcy estate. If the agreements created leases, pursuant to 11 U.S.C. § 365(p)(1) the personal property was no longer property of the estate and the automatic stay was terminated because the leases would be deemed rejected according to 11 U.S.C. § 365(d)(1) since the trustee did not assume them within 60 days after the petition was filed. If, on the other hand, the agreements created security interests, the automatic stay would be terminated pursuant to 11 U.S.C. 362(h) because the debtor's statement of

intention did not reference the creditor, the agreements, or the personal property identified in the agreements as required by 11 U.S.C. § 521(a)(2).

## **Links**

[In re Stanford](#)

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