FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL FOR THE FIRST CIRCUIT

BAP NO. PR 25-014

Bankruptcy Case No. 25-01877-MCF

EL FARMER INC.,
Debtor.

EL FARMER INC.,
Appellant,

v.

PR CR INVESTMENT CORP.,
Appellee.

Appeal from the United States Bankruptcy Court
for the District of Puerto Rico
(Mildred Cabán Flores, U.S. Bankruptcy Judge)

Before
Fagone, Chief U.S. Bankruptcy Appellate Panel Judge; and
Cary and Katz, U.S. Bankruptcy Appellate Panel Judges.

Homel A. Mercado Justiniano, Esq., on brief for Appellant.
Gustavo A. Chico-Barris, Esq., and Tomás F. Blanco-Pérez, Esq., on brief for Appellee.

November 10, 2026

Cary, U.S. Bankruptcy Appellate Panel Judge.

In a prior bankruptcy case, the chapter 12 debtor agreed not to contest any request by the lender for stay relief in future bankruptcy cases. That agreement was approved by the court in a stipulation regarding the treatment of the lender's secured claim. After that case was dismissed and the debtor filed the present bankruptcy case, the lender's successor sought stay relief based on the stipulation. The debtor objected, countering that the stay waiver from the prior case should not be enforced. The bankruptcy court granted the stay relief motion, concluding the waiver was not per se enforceable, but a multi-factor test weighed in favor of enforcing it. The debtor appealed. Finding no error or abuse of discretion by the bankruptcy court, we **AFFIRM**.

BACKGROUND

I. The Stipulation in the First Bankruptcy Case

El Farmer Inc. (the "Debtor"), which owned and operated a dairy farm in Isabela, Puerto Rico, filed a prior chapter 12 bankruptcy case in 2022. Condado 5, LLC asserted a $2.9 million secured claim on account of a loan which matured in 2019.

In March 2023, the Debtor and Condado executed a stipulation regarding the treatment of Condado's claim in the chapter 12 plan. The stipulation set forth a 36-month installment payment plan for Condado's claim and provided that its terms would be "automatically adopted and incorporated" into the Debtor's plan of reorganization. Of particular relevance here, the stipulation provided that, as an "incentive" for Condado to enter into the stipulation, the Debtor agreed not to challenge any request by Condado for relief from the automatic stay in any future bankruptcy cases. The parties agreed that the stipulation was binding on the parties "and their respective successors, privies and assignees," and, if an "Event of Default" occurred, such as dismissal of the bankruptcy case, the Debtor's obligations under the original loan documents and the stipulation would remain "valid, binding and enforceable in all respects."

The bankruptcy court approved the stipulation in March 2023 and confirmed the Debtor's plan a few months later. Ultimately, however, the Debtor defaulted on its payments under the stipulation and the bankruptcy case was dismissed in October 2023.

Sometime later, Condado assigned the loan to PR CR Investment Corp. ("PRCR"), which brought a foreclosure and collection of monies action against the Debtor in the local court. Those proceedings were stayed by the Debtor's filing of the present bankruptcy case.

II. The Present Bankruptcy Case

The Debtor filed the present chapter 12 petition in April 2025.

PRCR asserted a secured claim of approximately $3.1 million and moved for relief from the automatic stay under § 362(d)(1). PRCR argued that the Debtor's agreement in the prior case not to oppose future requests for stay relief—which was "heavily negotiated" by the parties, approved by the bankruptcy court, and incorporated into the confirmed plan in the prior case—was enforceable in this case and constituted cause for the bankruptcy court to grant relief from the stay. The Debtor opposed the motion, arguing the waiver was unenforceable because it was negotiated and executed by Condado, was not limited to a specific time frame, and did not survive the dismissal of the prior bankruptcy case.

After a hearing, the bankruptcy court granted PRCR's stay relief motion. In its bench ruling, the bankruptcy court acknowledged the "general proposition [that] pre-petition waivers of stay relief will be given no particular effect as a part of initial loan documents," as they "conflict with the policies and purposes of the Bankruptcy Code and should not be enforced." But, the court observed, courts have enforced pre-petition waivers which were ratified in a prior bankruptcy proceeding and have stated that such a waiver is a "primary element" to be considered when determining if cause exists for relief from the automatic stay under § 362(d)(1). The bankruptcy court emphasized, however, that pre-petition stay waivers are not per se

enforceable and courts typically consider the factors enumerated in In re Frye, 320 B.R. 786 (Bankr. D. Vt. 2005), when determining whether to enforce the waiver and grant stay relief.[1] The bankruptcy court then addressed the Frye factors as follows:

> Regarding the sophistication of the party making the waiver, the Court notes that the previous case in which the waiver was stipulated, the party making the waiver, herein the debtor, was represented by competent counsel.
>
> As to the consideration of the waiver, the stipulation dated March 17th, 2023, discloses that the loan matured on March 5th, 2019 and was due and payable since that date. [In the Stipulation,] Debtor was granted three additional years until April 2026 to repay the same.
>
> About whether other parties are affected, including unsecured creditors and junior lienholders, as per the documents in the case docket, there appears to be no junior lienholders over the real property, which serve as collateral to the movant's claim.
>
> With respect to unsecured creditors, the main . . . creditor is [PRCR], who appears to be undersecured. In addition, the record reflects that the motion for relief of stay was notified to all parties-in-interest in the present case. No party other than the debtor has filed an opposition to the motion. The Chapter 12 trustee has no position[.]
>
> The record shows that the debtor [has] no equity over the property, thus, [PRCR] does not appear to be adequately protected. Section 362(d)(1) expressly identifies lack of adequate protection as [a] prime example for cause for relief of stay.
>
> As to the proximity in time between the date of the waiver and the date of the bankruptcy filing, and whether there was compelling change in circumstances during that time, the stipulation with the waiver was filed in the previous case on March 17th, 2023, and the present case was filed April 29th, [2025]. The Court struggled with this factor because there is a period of eighteen months, and the stipulation didn't provide any time period, so sometimes that can cause problems. Nevertheless, the Court finds that waiver date is proximate enough to the filing date of the present case to enforce the same.
>
> The next factor has to do with [any] compelling change in circumstances. It appears that the debtor has changed their business. In a sense, they've gotten out of the dairy business due to the highly regulated industry and the decrease in value of the milk quotas and is now concentrating its efforts to grow plantains on real estate property. However, that factor alone is not enough for the Court to disregard the stipulation entered into [in] the first case.

[1] For the list of Frye factors, see infra at pp. 8-9.

> The Court is not in a position to evaluate the feasibility of any potential plan in this case, or the likelihood of reorganization. As of today, no monthly operating reports have been filed. The trustee doesn't have any comments. There is no evidence or accusation that the waiver was obtained by coercion, fraud, or mutual mistake of material facts at the moment of subscribing the stipulation in the prior case.
>
> The Court finds that enforcing the stipulation subscribed by the parties in the previous case and approved by the Court will further the legitimate public policy of encouraging out-of-court settlements and restructurings. Not enforcing the stipulation would have the contrary effect, and for all these reasons, the Court grants the motion for relief of stay.

This appeal followed.

APPELLATE JURISDICTION AND STANDARD OF REVIEW

The bankruptcy court's order granting PRCR relief from the automatic stay is a final order over which we have jurisdiction. See 28 U.S.C. § 158(a)-(c); Pinpoint IT Servs., LLC v. Landrau Rivera (In re Atlas IT Exp. Corp.), 761 F.3d 177, 182 (1st Cir. 2014) ("Orders *granting* stay relief are orders 'disposing of a discrete dispute' and so are final and appealable as of right[.]") (citation omitted).

Because bankruptcy courts have broad discretion in assessing cause for relief from the automatic stay under § 362(d)(1), a bankruptcy court's decision to grant relief from the automatic stay for cause is typically reviewed for abuse of discretion. See Kupperstein v. Schall (In re Kupperstein), 994 F.3d 673, 678 (1st Cir. 2021). "A court abuses its discretion if it does not apply the correct law or if it rests its decision on a clearly erroneous finding of material fact." La Trinidad Elderly LP SE v. Loíza Ponce Holdings LLC (In re La Trinidad Elderly LP SE), 627 B.R. 779, 797 (B.A.P. 1st Cir. 2021) (citation omitted). "[An] abuse of discretion also occurs 'when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them.'" Id. (citation omitted).

DISCUSSION

I. The Standards Governing Stay Relief Under § 362(d)(1)

Section 362(a)(1) provides that the filing of a bankruptcy petition automatically stays all acts against a debtor, property of the debtor, and property of the debtor's estate, subject to limited exceptions. 11 U.S.C. § 362(a)(1). Under § 362(d)(1), however, a creditor may seek relief from the automatic stay "for cause." 11 U.S.C. § 362(d)(1). The Bankruptcy Code does not define "cause" for purposes of § 362(d)(1), and courts typically determine cause "based on the totality of the circumstances in each particular case." Azevedo v. U.S. Bank N.A. (In re Azevedo), BAP No. MW 17-051, 2018 WL 7377880, at *6 (B.A.P. 1st Cir. Aug. 29, 2018) (citation omitted). Bankruptcy courts have "broad discretion" when determining whether there is cause warranting stay relief under § 362(d)(1). In re Nat'l Fish & Seafood, Inc., No. 19-11824-FJB, 2021 WL 771652, at *4 (Bankr. D. Mass. Feb. 26, 2021). In this case, the bankruptcy court found cause for stay relief based upon the Debtor's agreement in the stipulation not to oppose any request for stay relief in a future bankruptcy case.

Courts are divided as to whether pre-petition waivers of the automatic stay are enforceable in a subsequent bankruptcy case. "Although stay waivers were long thought to be unenforceable as against public policy, an increasing number of courts are now enforcing them." In re Triple A & R Cap. Inv., Inc., 519 B.R. 581, 584 (Bankr. D.P.R. 2014), aff'd sub nom., Triple A & R Cap. Inv., Inc. v. PRLP 2011 Holdings LLC (In re Triple A & R Cap. Inv., Inc.), No. 14-1896 (JAF), 2015 WL 1133190 (D.P.R. Mar. 12, 2015). "The difficult issue of whether prepetition stay waivers are enforceable, reflects the tension between the public policies favoring out of court workouts, on the one hand, and protecting the collective interest of the debtor's creditors, on the other." Id.; see also In re Jenkins Ct. Assocs. Ltd. P'ship, 181 B.R. 33, 36 (Bankr. E.D. Pa. 1995) ("A bankruptcy court, as a court of equity, must balance the

Congressionally expressed public policy underpinning the Bankruptcy Code with the [creditor]'s right to rely on the terms of a bargained-for pre-petition settlement agreement.") (citation omitted). There is no controlling law in the First Circuit on the enforceability of pre-petition stay waivers.

Courts considering the enforceability of such provisions typically employ one of three different approaches: (1) reject pre-petition automatic stay waivers as per se unenforceable as against public policy; (2) uphold pre-petition stay waivers as enforceable and binding; or (3) hold that pre-petition stay waivers are sometimes enforceable in appropriate cases. See In re Triple A & R Cap. Inv., Inc., 519 B.R. at 584 (identifying the three approaches).

Courts which reject pre-petition automatic stay waivers as against public policy typically reason that a pre-bankruptcy debtor lacks the capacity to waive rights bestowed upon the debtor-in-possession or that allowing such waivers would undermine the bankruptcy process and collective interests of creditors. See, e.g., In re DJK Enters., LLC, No. 24-60126, 2025 Bankr. LEXIS 327, at *19-20 (Bankr. S.D. Ill. Feb. 13, 2025); In re Jeff Benfield Nursery, Inc., 565 B.R. 603, 609 (Bankr. W.D.N.C. 2017); In re Pease, 195 B.R. 431, 433 (Bankr. D. Neb. 1996).

On the other end of the spectrum, a small minority of courts uphold pre-petition stay waivers "in broad unqualified terms on the basis of freedom of contract[.]" In re Triple A & R Cap. Inv., Inc., 519 B.R. at 584; see also In re Club Tower L.P., 138 B.R. 307, 312 (Bankr. N.D. Ga. 1991) (ruling that "pre-petition agreements [regarding the automatic stay] should be enforced against a borrower who later files for bankruptcy"); In re Citadel Props., Inc., 86 B.R. 275, 276 (Bankr. M.D. Fla. 1988) (holding that pre-petition stipulation regarding relief from stay was "binding upon the parties" and "enforceable in bankruptcy"). These courts hold that enforcing a pre-petition settlement agreement by the debtor not to oppose future requests for stay

relief "furthers the legitimate public policy of encouraging out of court restructurings and settlements." In re Club Tower L.P., 138 B.R. at 312 (citation omitted).

Under the third approach, which is the majority position and the one applied by the bankruptcy court in this case, courts find that pre-petition agreements waiving the automatic stay are sometimes enforceable, but they are "neither *per se* enforceable, nor self-executing." In re Frye, 320 B.R. at 790 (citation omitted); see also In re BGM Pasadena, LLC, No. 2:16-cv-03178-CAS, 2016 WL 3212243, at *4 (C.D. Cal. June 2, 2016) (citing cases); SummitBridge Nat'l Invs. VI, LLC v. Orchard Hills Baptist Church, Inc. (In re Orchard Hills Baptist Church, Inc.), 608 B.R. 309, 317 (Bankr. N.D. Ga. 2019); In re A. Hirsch Realty, LLC, 583 B.R. 583, 596-97 (Bankr. D. Mass. 2018); Sw. Ga. Bank v. Desai (In re Desai), 282 B.R. 527, 532 (Bankr. M.D. Ga. 2002). The courts in these cases typically evaluate a variety of factors when considering whether relief from stay should be granted based on a pre-petition waiver of the automatic stay, such as:

> (1) the sophistication of the party making the waiver;
>
> (2) the consideration for the waiver, including the creditor's risk and the length of time the waiver covers;
>
> (3) whether other parties are affected including unsecured creditors and junior lienholders[;] . . .
>
> (4) the feasibility of the debtor's plan[;]
>
> . . . .
>
> (5) whether there is evidence that the waiver was obtained by coercion, fraud or mutual mistake of material facts;
>
> (6) whether enforcing the agreement will further the legitimate public policy of encouraging out of court restructurings and settlements;
>
> (7) whether there appears to be a likelihood of reorganization;
>
> (8) the extent to which the creditor would be otherwise prejudiced if the waiver is not enforced;

> (9) the proximity in time between the date of the waiver and the date of the bankruptcy filing and whether there was a compelling change of circumstances during that time; and
>
> (10) whether the debtor has equity in the property and the creditor is otherwise entitled to relief from stay under § 362(d).

In re Frye, 320 B.R. at 791 (footnotes omitted). "The weight to be given to each factor is discretionary, and some factors may be weighted more heavily than others, based on the facts and circumstances of the case." In re DJK Enters., LLC, 2025 Bankr. LEXIS 327, at *14 (citing In re Frye, 320 B.R. at 791).

When conducting this analysis, courts are more inclined to grant stay relief when the waiver was ratified in a prior bankruptcy proceeding. See, e.g., In re A. Hirsch Realty, LLC, 583 B.R. at 601 (agreeing with "those decisions in which courts have upheld contractual provisions waiving the protections afforded by the automatic stay when they are incorporated in court orders approving settlement agreements or orders confirming Chapter 11 plans while employing a multi-factor approach"); In re Frye, 320 B.R. at 789 (finding "the fact that the pre-petition waiver . . . was agreed upon in the context of a prior bankruptcy case to be significant"). Courts also agree that "a prepetition waiver of the automatic stay, even if enforceable, does not enable the secured creditor to enforce its lien without first obtaining stay relief from the bankruptcy court." In re Triple A & R Cap. Inv., Inc., 519 B.R. at 584; see also In re Sky Grp. Int'l, Inc., 108 B.R. 86, 89 (Bankr. W.D. Pa. 1989) (stating that a pre-petition stay waiver "is not self-executing" and relief from stay must be authorized by the bankruptcy court).

In granting PRCR's stay relief motion, the bankruptcy court adopted the majority approach, concluding that the Debtor's agreement in the stipulation not to oppose future requests for stay relief was not per se enforceable, but that the Frye factors weighed in favor of enforcing the waiver and granting stay relief. The Debtor does not challenge the legal standard applied by

the bankruptcy court but instead argues that the bankruptcy court committed clear error in its evaluation of several of the Frye factors.

As evidenced by the cases cited above, there is no shortage of authority supporting the bankruptcy court's statement of the law regarding the enforceability of pre-petition stay waivers. However, as noted above, there is no controlling law in the First Circuit on this issue. Without any binding legal authority, there is a question as to the enforceability of pre-petition stay waivers in this circuit. But because neither party argues that waivers of the stay are either per se enforceable or per se unenforceable, and because they both frame their arguments to us in light of the Frye factors, we will follow suit. See Margolin v. Nat'l Ass'n of Immigr. Judges, 608 U.S. 339, 342-43 (2026). Accordingly, we consider not whether the bankruptcy court erred by considering the Frye factors when determining whether to enforce the waiver and grant stay relief, but whether the bankruptcy court abused its discretion in its evaluation of those factors.

II. The Bankruptcy Court Did Not Abuse Its Discretion in Its Evaluation of the Frye Factors

In assessing the Frye factors, the bankruptcy court observed that the waiver at issue in this case was given by the Debtor knowingly and voluntarily, in the context of prior bankruptcy litigation, with the advice of counsel and the approval of the bankruptcy court. It was not boilerplate language buried in a bank loan document, but a specifically negotiated settlement term that was presented to and approved by the bankruptcy court. The bankruptcy court emphasized that the Debtor received consideration for the pre-petition waiver and cited no evidence of coercion, fraud, or mutual mistake. The court found that although the waiver was not limited to a specific time period, it was "proximate enough" to the filing of the present case to be enforceable. The court further concluded that while the Debtor argued there was a compelling change of circumstances, that factor alone did not render the waiver unenforceable.

This analysis is supported by the case law and the record. Nonetheless, the Debtor argues that the bankruptcy court committed "clear error" in its evaluation of five of the Frye factors. We disagree.

A. The Sophistication of the Party Making the Waiver

The Debtor contends that the bankruptcy court erred in weighing this factor because the Debtor is a family farmer, not a sophisticated debtor. This argument is unavailing. First, the record reflects that the Debtor is not an individual farmer, but a corporate entity which had engaged in commercial agricultural operations for many years. Second, there is ample support for the bankruptcy court's determination that the Debtor was sufficiently sophisticated because it was represented by experienced counsel when it negotiated and executed the waiver. See, e.g., Frye, 320 B.R. at 792 (determining "the Debtor, with the assistance of her counsel, was sufficiently sophisticated to enter into, understand, and be bound by" the agreement); In re Desai, 282 B.R. at 532 (stating that where debtor was represented by counsel when negotiating waiver language in the context of arriving at a consensual plan, the debtor, through counsel, was sufficiently sophisticated to agree to the waiver).

B. The Feasibility of the Debtor's Plan and the Likelihood of Reorganization

The Debtor also argues that the bankruptcy court failed to properly evaluate the feasibility of the Debtor's plan and the likelihood of reorganization, given that the Debtor had recently filed a chapter 12 plan which included treatment for all claims. The Debtor does not, however, explain why its plan was feasible or why reorganization was likely. Further, the record reflects that the Debtor failed to perform under a confirmed plan in the prior bankruptcy case, despite the new repayment terms made in the stipulation. And while the Debtor asserted in the present bankruptcy case that it had since changed its operations from dairy to plantain farming, it had not submitted any monthly operating reports from which the court could assess the

feasibility of the proposed plan. See Farm Credit Servs. of Am., PCA v. Swackhammer (In re Swackhammer), 650 B.R. 914, 921 (B.A.P. 8th Cir. 2023) (stating that when determining feasibility, debtors' "income and expense projections are considered in conjunction with their actual past performance") (citation omitted); In re Green, 680 B.R. 83, 97 (Bankr. W.D. Ky. 2025) (stating that to establish feasibility, debtors "must put forth evidence of income or plans to generate income") (citation omitted). The chapter 12 trustee also opposed plan confirmation based on the lack of information from which he could assess the plan's feasibility. Thus, the record supports the bankruptcy court's determination as to this factor.

C. Whether Enforcement Will Further the Legitimate Public Policy of Encouraging Out of Court Restructurings and Settlements

Although the Debtor asserts that the bankruptcy court erred because it "did not analyze this factor with the facts of this case," the Debtor does not elaborate on this argument or explain why enforcement of the waiver would not serve a legitimate public policy. Nor does the Debtor address those cases in which courts have recognized that enforcement of stay waivers in appropriate circumstances serves public policy. See, e.g., So. & Headley Assocs., Ltd. v. So. St. Morristown LLC (In re So. & Headley Assocs., Ltd.), No. 20-07410 (CCC), 2023 WL 2554160, at *2 (D.N.J. Mar. 17, 2023) (affirming bankruptcy court, which stated that waiver contained in "a heavily negotiated court-approved order" was enforceable on "a policy basis," as well as "a basis of fairness and continuing to encourage parties to resolve disputes and to be able to rely on the finality of what the [Bankruptcy] Court says in resolving those disputes").

D. Prejudice to the Creditor if the Waiver is Not Enforced

Noting that the bankruptcy court did not address this factor, the Debtor argues that PRCR would not be prejudiced if the waiver were not enforced because it filed a proof of claim and can object to the Debtor's plan. We are not persuaded.

The record reflects that, in exchange for an additional three years to pay a fully matured loan at a re-amortized rate, the lender required the Debtor's agreement that it would not oppose a request for stay relief in any future bankruptcy case, and the Debtor expressly recognized in the stipulation that any future bankruptcy filing would increase the lender's potential losses, would delay its rights to pursue legal remedies, and would constitute a bad faith filing. If the stipulation were not enforced as negotiated, the lender would have made the concessions set forth in the agreement and still have the costs and delay those terms were intended to avoid.

E. The Proximity of Time Between the Waiver and the Bankruptcy Filing and Whether There Was a Compelling Change of Circumstances

The Debtor further maintains that the bankruptcy court erred in finding that the date the waiver was executed was "proximate enough to the filing date of the present case to enforce the same" without further explanation. The Debtor, however, cites no legal authority holding that a pre-petition stay waiver must be limited in time to be enforceable. Nor does the Debtor address that the two-year period between the execution of the stipulation and the filing of the present bankruptcy case was well within the range that courts have found acceptable. Compare In re A. Hirsch Realty, LLC, 583 B.R. at 589-90 (three years), and In re BGM Pasadena, LLC, 2016 WL 3212243, at *5 (four years), with In re Frye, 320 B.R. at 788 (one year).

The Debtor also argues that the bankruptcy court failed to consider that the Debtor's change in farming operations from dairy to crops constituted a "compelling change in circumstances" between the two bankruptcy cases. The record reflects, however, that the bankruptcy court expressly acknowledged the change in farming operations but ultimately concluded that "that factor alone [wa]s not enough for the Court to disregard the stipulation

entered into [in] the first case." Further, there was no evidence in the record that the change to plantain farming would improve the Debtor's financial posture.

Thus, the Debtor has not demonstrated any error or abuse of discretion by the bankruptcy court in its evaluation of the Frye factors or its determination that they weighed in favor of enforcing the waiver and granting stay relief.

III. The Stipulation Was Not Unenforceable Due to the Dismissal of the Prior Case

We turn now to the Debtor's argument that the bankruptcy court abused its discretion in granting stay relief because the stipulation was unenforceable under § 349 due to the dismissal of the prior case.

Section 349 governs the general effects of a dismissal of a bankruptcy case. In relevant part, it provides that, "[u]nless the court, for cause, orders otherwise," dismissal of a case: (1) "reinstates" certain proceedings that were superseded by the case and certain transfers and liens that were avoided; (2) "vacates" any order, judgment, or transfer ordered under § 522(i)(1) (recovery of exempt property transferred pre-petition), § 542 (turnover of property of the estate), § 550 (liability of transferees of avoided transfers), or § 553 (setoff); and (3) "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case[.]" 11 U.S.C. § 349(b)(1)-(3). The legislative history of § 349 reflects that the "basic purpose of the subsection is to undo the bankruptcy case, as far as practicable, and to restore all property rights to the position in which they were found at the commencement of the case." H.R. Rep. No. 95-595, 95th Cong. 1st Sess. 338 (1977); S. Rep. No. 989, 95th Cong., 2d Sess. 49, reprinted in 1978 U.S. Code Cong. & Ad. News 5787, 5835; see also Czyzewski v. Jevic Holding Corp., 580 U.S. 451, 454 (2017) (stating that § 349(b) "ordinarily provides for what is, in effect, a restoration of the prepetition financial status quo").

"Despite some seemingly broad statements of expansive general effect," however, "most courts have cabined [§] 349(b)'s application to Bankruptcy Court orders that are specifically identified in the statute." In re Space Bldg. Corp., 206 B.R. 269, 274 (D. Mass. 1996) (footnote and citation omitted); see also Gulf Ins. Co. v. Glasbrenner, 343 B.R. 47, 55 (S.D.N.Y. 2006) ("By its terms, [§] 349(b)(2) vacates only those orders entered pursuant to the enumerated sections[.]") (citations omitted), aff'd sub nom., Gulf Ins. Co. v. The Caldor Corp., 273 F. App'x 90 (2d Cir. 2008); In re Searles, 70 B.R. 266, 270 (D.R.I. 1987) (ruling that order not specifically named in § 349(b)(2), "by negative implication," is not vacated by dismissal of the bankruptcy case).

Although there is no controlling case law in the First Circuit on this issue, we are bound by the well-established rule of statutory construction that where "the statute's language is plain, the sole function of the courts is to enforce it according to its terms." PCC Rokita S.A. v. HH Tech. Corp. (In re HH Tech. Corp.), 659 B.R. 788, 807 (B.A.P. 1st Cir. 2024) (quoting United States v. Ron Pair Enters., Inc., 489 U.S. 235, 241 (2004)), aff'd, 146 F.4th 34 (1st Cir. 2025). The plain language of § 349(b)(2) provides that dismissal of a case "vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title . . . ." 11 U.S.C. § 349(b)(2). Here, because neither the stipulation nor the order approving the stipulation were entered under a section specifically enumerated in § 349(b), dismissal of the Debtor's prior case did not operate to vacate the stipulation. See Musso v. OTR Media Grp., Inc. (In re Ladder 3 Corp.), 571 B.R. 525, 531 (Bankr. E.D.N.Y. 2017) (providing that § 349(b)(2) "operates to vacate [a] Stipulation only if the order approving the Stipulation was entered under a section enumerated in § 349(b)(2)") (citation omitted), aff'd, 768 F. App'x 146 (2d Cir. 2019); Darnall v. Fed. Land Bank of Wichita, No. 88-1688-K, 1989 WL 87629, at *3 (D. Kan. July 5, 1989)

(ruling that an order approving a "stipulation agreement could not be invalidated through the operation of . . . § 349(b)(2)").

The Debtor's remaining arguments are also easily dispatched. The Debtor insists the stay waiver did not survive dismissal of the prior case because the parties expressly agreed that the stipulation was not "a modification or extinctive novation" of the parties' obligations under the loan documents, and the loan documents did not contain a stay waiver. The Debtor, however, omits a crucial phrase at the end of the cited provision. The stipulation provided it was "not intended to constitute a modification or extinctive novation" of the parties' obligations under the loan documents "except as amended [t]herein." The stipulation amended the terms of the loan documents by adding a pre-petition stay waiver.

The Debtor also argues that the stay waiver was unenforceable as to PRCR because it was negotiated and executed by Condado. However, this argument ignores that the stipulation expressly provided it was binding on the parties' "successors, privies and assignees." The Debtor has not disputed that PRCR is a successor in interest to Condado.

CONCLUSION

For the reasons discussed above, we **AFFIRM** the order granting PRCR relief from the automatic stay.