

12 This matter comes before the Court on a motion for judgment on the pleadings filed 13 by Defendant Federal Express Corporation ("FedEx"). FedEx moves for judgment based on Plaintiff Kathryn Noble's failure to include this lawsuit in her filings for Chapter 13 14 15 bankruptcy. Since the motion was filed, Noble has received leave from the bankruptcy court to amend her bankruptcy filings and also to pursue this lawsuit.¹ The parties shall meet and 16 confer on whether the bankruptcy court's October 14, 2011 order alleviates FedEx's 17 18 concerns about standing.

19 In addition, the Court advises the parties that it is inclined to follow the outcome reached in Cannata v. Wyndham Worldwide Corp., Case No. 2:10-CV-00068-PMP-LRL, 20 21 2011 WL 2910112 (D. Nev. July 21, 2011). That court did not judicially estop the plaintiff 22 from pursuing her discrimination claims, but it did "limit any potential award of damages to 23 the amount necessary for the repayment of creditors as determined by the chapter 7 estate trustee" such that the plaintiff "will receive nothing." Id. at *9. This solution would appear 24 25 to strike an appropriate balance of equities, and the parties shall meet and confer on whether this is an acceptable outcome in this case. If the parties agree, or can agree on an alternate 26

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¹The Court takes judicial notice of the documents filed in the bankruptcy court pursuant to Federal Rule of Civil Procedure 201. The Court does not, however, take judicial notice of these documents for the truth of any matter asserted in Noble's bankruptcy filings. 28

resolution, then they shall file an appropriate stipulation and proposed order resolving
FedEx's pending motion. If they cannot reach agreement, then they shall file a joint
supplemental brief setting forth their respective positions, including citations to legal
authority as to why proceeding in this manner would be reversible error. The parties shall
file their stipulation and proposed order or joint supplemental brief on or before October 31,
2011.

IT IS SO ORDERED.

10 Dated: 10/20/11

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THELTON E. HENDERSON, JUDGE UNITED STATES DISTRICT COURT