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IT IS SO ORDERED.

Dated: January 3, 2025



*Beth A. Buchanan*

Beth A. Buchanan  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re	)	
	)	Case No. 23-10487
DEBORAH YOLANDA DAWSON	)	Chapter 7
	)	Judge Buchanan
	)	
Debtor	)	
	)	
DEBORAH YOLANDA DAWSON	)	Adv. Proc. 23-1023
	)	
Plaintiff(s)	)	
v.	)	
	)	
RAM MOTORS, LLC	)	
	)	
Defendant(s)	)	

MEMORANDUM OPINION GRANTING, IN PART, PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT [Docket Number 21] AND REQUIRING  
SUPPLEMENTATION OF THE RECORD WITH ATTORNEY FEES AND COSTS

This matter is before this Court on *Plaintiff Deborah Dawson's Motion for Summary Judgment* [Docket Number 21] and *Defendant RAM Motors, LLC's Response to Plaintiff Deborah Dawson's Motion for Summary Judgment* [Docket Number 25].

Prior to the bankruptcy filing, Defendant RAM Motors, LLC ("RAM Motors") obtained repossession title to the vehicle owned by Plaintiff-Debtor Deborah Dawson ("Ms. Dawson"). At the time of the bankruptcy filing, however, Ms. Dawson retained possession of the vehicle. RAM Motors subsequently repossessed the vehicle without first requesting and obtaining relief from the automatic stay. Ms. Dawson filed this adversary proceeding requesting damages for RAM Motors's alleged willful violation of the stay including turnover of the Vehicle. She also requested damages for RAM Motors's alleged violation of state laws. Ms. Dawson filed a motion for summary judgment to which RAM Motors responded.

Upon review of the parties' summary judgment filings and the undisputed facts, this Court concludes that Ms. Dawson is entitled to summary judgment on her claim that RAM Motors willfully violated the automatic stay. Although RAM Motors had repossession title at the time of the bankruptcy filing, this, alone, failed to transfer full ownership and property rights away from the debtor. Instead, Ms. Dawson retained equitable rights in the vehicle including possession and the state law right to redeem at the time of her bankruptcy filing. These rights became part of the bankruptcy estate protected by the automatic stay. RAM Motors's post-petition act of repossessing the vehicle with knowledge of the bankruptcy filing and without first requesting and obtaining relief from the automatic stay amounted to a willful violation of the stay under 11 U.S.C. § 362(k). RAM Motors's violation is a continuing and egregious one in that RAM Motors has refused to return the Vehicle upon request from Debtor's counsel forcing the litigation of this adversary

proceeding. Accordingly, this Court grants the Ms. Dawson's request for turnover, actual damages, punitive damages, and reasonable attorney fees.

## **I. FACTUAL BACKGROUND**

The following facts set forth in Plaintiff Ms. Dawson's motion for summary judgment and the attached exhibits are undisputed.

Prior to the bankruptcy filing, Ms. Dawson entered into a purchase agreement with RAM Motors to purchase a 2007 Lexus sedan ("the Vehicle") [Docket Number 21, Ex. A (Complaint), ¶ 8; Ex. B (Answer), ¶ 8]. As collateral, RAM Motors took a consensual purchase money security interest in the Vehicle in a Security Agreement signed by Ms. Dawson [*Id.*, Ex. A, ¶ 9; Ex. B, ¶ 9].

Ms. Dawson defaulted on the terms of the Purchase Agreement [*Id.*, Ex. A, ¶ 10; Ex. B, ¶ 10]. Following the default, RAM Motors secured a repossession title causing the title to reflect its ownership of the vehicle pursuant to the security agreement [*Id.*, Ex. B, ¶ 11; Ex. C (RAM Motors Responses to Interrogatories), Answer to No. 7]. Ms. Dawson never received notice of this change in the title to the vehicle [*Id.*, Ex. G (Dawson Affidavit), ¶ 8].

Ms. Dawson filed her chapter 7 bankruptcy petition on March 20, 2023 [*Id.*, Ex. G, ¶ 3]. As of the date of the bankruptcy filing, Ms. Dawson remained in physical possession of the Vehicle and scheduled ownership of the Vehicle on Schedule B of her bankruptcy schedules [*Id.*, Ex. G, ¶¶ 5-6; Ex. H (Schedule A/B)]. On the date of filing, Ms. Dawson owed RAM Motors \$1,551.00 and intended to reaffirm the debt owed to RAM Motors [*Id.*, Ex. G, ¶ 5; Ex. I (Statement of Intention)]. RAM Motors received notice of the bankruptcy filing through the 341 Meeting of Creditors Notice issued by this Court and through communications by counsel for Ms. Dawson with RAM Motors's registered agent; RAM Motors admits to receiving notice of Ms. Dawson's

bankruptcy filing on or about March 24, 2023 [*Id.*, Ex. A at ¶ 14; Ex. B at ¶ 14; Exs. E and F, Admission No. 3].

On the evening of April 2, 2023, Ms. Dawson lost possession of the Vehicle [*Id.*, Ex. G, ¶ 7]. RAM Motors concedes that it repossessed the Vehicle through its agent and/or authorized representative [*Id.*, Ex. C (Defendant's Amendment of Admissions Answers)].<sup>1</sup> Ms. Dawson received a chapter 7 bankruptcy discharge on June 27, 2023 [*Id.*, Ex. G, ¶13].

Counsel for Ms. Dawson sent an April 6, 2023 letter to RAM Motors to request that the Vehicle be returned to Ms. Dawson [*Id.*, Ex. J (April 6, 2023 letter); Ex. A ¶16; Ex. B ¶16]. While RAM Motors admits to receiving the correspondence [*Id.*, Exs. E and F, Admission No. 10], RAM Motors has not returned the Vehicle to Ms. Dawson [*Id.*, Ex. G, ¶ 14].

For the first few days after the car was repossessed, Ms. Dawson borrowed vehicles from family and friends because she could not afford to miss work [*Id.*, Ex. G, ¶ 9]. When that became inconvenient, she borrowed funds from her mother to rent a vehicle from Budget for \$687.47 [*Id.*, Ex. G, ¶ 10 and attached receipt]. She subsequently purchased a different car, a 2008 Saturn Vue for \$2,710.00 using funds returned by a different creditor as part of the bankruptcy proceedings [*Id.*, Ex. G, ¶ 11 and attached receipt]. Ms. Dawson attests that she has had difficulty sleeping and experienced extreme stress due to the loss of the Vehicle and the amount of time and effort expended to try and get it back [*Id.*, Ex. G, ¶ 12].

## **II. SUMMARY JUDGMENT STANDARD**

This Court addresses Ms. Dawson's motion for summary judgment under the standard set forth in Rule 56(a) of the Federal Rules of Civil Procedure (the "Civil Rules") made applicable to

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<sup>1</sup> RAM Motors originally denied repossessing the Vehicle [Docket Number 21, Ex. B, ¶ 16]. However, in its Amendment of Admissions Answers, RAM Motors admits to repossessing the Vehicle via its agent Mt. Orab Towing [*Id.*, Ex. C, Amendment of Admission Answers].

this proceeding by Rule 7056 of the Federal Rules of Bankruptcy Procedure. Civil Rule 56(a) provides that summary judgment is to be granted by this Court “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “As to materiality, the substantive law will identify which facts are material. Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A “genuine” dispute exists only where “evidence is such that a reasonable [finder of fact] could return a [judgment] for the nonmoving party.” *Id.*; *see also Gallagher v. C.H. Robinson Worldwide, Inc.*, 567 F.3d 263, 270 (6th Cir. 2009).

To prevail, the moving party, if bearing the burden of persuasion at trial, must establish all elements of its claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 331 (1986). Thereafter, “the nonmoving party must come forward with ‘specific facts showing that there is a genuine issue for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (citations omitted). All inferences drawn from the underlying facts must be viewed in a light most favorable to the party opposing the motion. *Id.* at 587-88; *Anthony v. BTR Auto. Sealing Sys., Inc.*, 339 F.3d 506, 511 (6th Cir. 2003). Nonetheless, mere conclusory allegations or unsupported opinions of the nonmovant are insufficient to defeat a motion for summary judgment. *Matsushita*, 475 U.S. at 586-88; *See also Blaney v. Cengage Learning, Inc.*, 2011 U.S. Dist. LEXIS 43780, at \*19-20, 2011 WL 1532032, at \*7 (S.D. Ohio Apr. 22, 2011) (“Although the summary judgment standard requires that evidence of record be viewed in the light most favorable to the nonmoving party, it does not require that all bald assertions and subjective unsupported opinions asserted by the nonmoving party be adopted by a court”).

### **III. LEGAL ANALYSIS**

#### **A. The Vehicle is Property of the Estate**

Ms. Dawson asserts that RAM Motors's repossession of her Vehicle following, and with knowledge of, her bankruptcy filing amounts to a willful violation of the automatic stay. She requests damages including turnover of the Vehicle. RAM Motors opposes such relief. RAM Motors does not dispute that it repossessed the Vehicle post-petition but asserts that this act did not violate the automatic stay because, prior to the bankruptcy filing, RAM Motors obtained repossession title to the Vehicle. In essence, RAM Motors argues that at the time of the bankruptcy filing, the Vehicle was no longer property of the Debtor and, accordingly, did not become property of the bankruptcy estate subject to the automatic stay. As discussed below, RAM Motors is incorrect. The Debtor retained rights in the Vehicle and those rights became property of the estate.

Upon the filing of a bankruptcy petition, an estate is created that includes, with few exceptions, all legal and equitable interests of the debtor in property as of the commencement of the case. 11 U.S.C. § 541(a); *Kitchen v. Boyd (In re Newpower)*, 233 F.3d 922, 928 (6th Cir. 2000). Unless a countervailing federal interest exists, state law determines a debtor's property interests for purposes of § 541. *Newpower*, 233 F.3d at 928.

Under Ohio law, a person acquires an interest in a motor vehicle from its owner through the issuance of a certificate of title for the motor vehicle to the person. *See* Ohio Rev. Code § 4505.04(A). While RAM Motors asserts that it obtained repossession title for Ms. Dawson's Vehicle prior to the bankruptcy filing, repossession title, alone, did not give RAM Motors all legal and equitable interests in the Vehicle. *Friesinger v. MyUSA Credit Union, Inc. (In re Badger)*, Adv. No. 23-3010, 2023 Bankr. LEXIS 1175, at \*9-10 (Bankr. S.D. Ohio Apr. 26, 2023). "A 'repossession title' provides nothing more than a mechanism by which a creditor may pass legal

title to a transferee upon exercising its rights under the UCC.” *Id.* at \*9 (internal quotation marks and citations omitted). While RAM Motors may have obtained legal title, Ms. Dawson retained equitable rights including possession and the right to redeem under state law. *Id.* at \*6-7, 9 (citing *Nat’l City Bank v. Elliott (In re Elliott)*, 214 B.R. 148, 151 (B.A.P. 6th Cir. 1997)). Those rights are sufficient to bring the debtor’s equitable interests in the vehicle into the bankruptcy estate. *Elliott*, 214 B.R. at 149; *Badger*, 2023 Bankr. LEXIS 1175, at \*6-7.

Assuming RAM Motors obtained valid repossession title<sup>2</sup> pre-petition, Ms. Dawson retained equitable rights in the Vehicle, including possession and the right to redeem, at the time of the bankruptcy filing. Those equitable rights in the Vehicle were sufficient to bring Ms. Dawson’s interest in the Vehicle into the bankruptcy estate under 11 U.S.C. § 541.

**B. RAM Motor’s Post-Petition Repossession of the Vehicle Violates the Automatic Stay and is Void**

The filing of a debtor’s bankruptcy petition “operates as a stay, applicable to all entities” against efforts to collect from the debtor, or the debtor’s property, outside of the bankruptcy forum. 11 U.S.C. § 362(a); *City of Chicago v. Fulton*, 592 U.S. 154, 156-57 (2021). “Among the many collection efforts prohibited by the stay is ‘any act to obtain possession of property of the estate or . . . to exercise control over property of the estate.’” *Fulton*, 592 U.S. at 157 (quoting 11 U.S.C. § 362(a)(3)). Accordingly, absent situations in which a creditor obtains relief from the automatic stay, a creditor’s post-petition repossession of a vehicle in which the debtor has an interest violates the automatic stay as an act to obtain possession of, and exercise control over, property of the estate. *See, e.g., In re Docherty*, Case No. 15-14124, 2016 Bankr. LEXIS 511, at \*13-14, 2016

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<sup>2</sup>Ms. Dawson asserts that RAM Motors obtained the repossession title illegally. However, the factual record is not sufficiently developed on summary judgment for this Court to make a determination of that particular issue nor is its determination necessary for purposes of deciding whether RAM Motors willfully violated the automatic stay by repossessing the Vehicle post-petition and refusing to return the Vehicle upon demand.

WL 675835, at \*4 (Bankr. N.D. Ohio Feb. 18, 2016) (concluding that the creditor violated the automatic stay by repossessing the debtor's vehicle after the bankruptcy filing and not returning it to the debtor for 17 days).

In this case, the undisputed facts support that Ms. Dawson had possession of the Vehicle on March 20, 2023, the day she filed her bankruptcy petition. She attests that her Vehicle was repossessed on April 2, 2023, nearly two weeks after the bankruptcy petition was filed. RAM Motors concedes that it repossessed the Vehicle through its agent or authorized representative.

Nevertheless, RAM Motors argues that its post-petition repossession of Ms. Dawson's Vehicle, without first obtaining relief from the automatic stay, did not violate the automatic stay because its repossession did not change the status quo of the asset. In support, RAM Motors cites the United States Supreme Court opinion in *City of Chicago v. Fulton*. In *Fulton*, the creditor impounded the debtors' vehicles before the debtors filed their bankruptcy petitions. 592 U.S. at 157. The question presented to the Supreme Court was whether the creditor's continued retention of the vehicles after the debtors' bankruptcy filings violates the automatic stay. *Id.* The Supreme Court concluded that only post-petition affirmative acts by creditors that disturb the status quo of estate property as it exists on the date of the bankruptcy filing violate the stay under 11 U.S.C. § 362(a)(3). *Id.* at 158. Because the mere retention of property was not an affirmative act that disturbs the status quo, such post-petition retention, alone, did not violate the automatic stay. *Id.* at 161-62.

The *Fulton* reasoning applies in situations where a creditor repossesses a vehicle prepetition such that the mere retention of the vehicle after the bankruptcy filing does not change the status of the vehicle as it existed on the date the petition is filed. It has no application to the facts of the instant case in which the debtor had possession of the vehicle at the time the bankruptcy



petition was filed. RAM Motors changed the status quo when it took possession of the Vehicle away from Ms. Dawson after the bankruptcy filing and it is that affirmative act of repossession that violated the automatic stay under 11 U.S.C. 362(a)(3).<sup>3</sup>

Actions taken in violation of the automatic stay are “invalid and voidable and shall be voided absent limited equitable circumstances.” *Easley v. Pettibone Mich. Corp.*, 990 F.2d 905, 911 (6th Cir. 1993) (noting such limited equitable circumstances to include when the debtor unreasonably withholds notice of the bankruptcy stay or when the debtor is unfairly using the stay as a shield to avoid an unfavorable result; in those limited circumstances, the protections of § 362(a) will be unavailable to the debtor). In this case, RAM Motors’s post-petition repossession of the Vehicle violated the automatic stay. Having presented no unfair conduct by Ms. Dawson that may give rise to an equitable exception, RAM Motors’s repossession of the Vehicle is void and the Vehicle must be returned to Ms. Dawson.<sup>4</sup>

**C. RAM Motors’s Repossession Constitutes a “Willful” Violation of the Automatic Stay**

Once a violation of the automatic stay has occurred, an individual debtor is entitled to damages provided by statute if she proves that the creditor’s stay violation is “willful.” 11 U.S.C. § 362(k)(1); *Fulton*, 592 U.S. at 157. Ms. Dawson asserts that RAM Motors’s act of repossessing the Vehicle with knowledge of the bankruptcy filing meets this requirement. This Court agrees.

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<sup>3</sup> In its response on summary judgment, RAM Motors seems to suggest that, because it had repossession title, the status quo of the Vehicle was not altered by its repossession of the vehicle post-petition. However, as noted in the prior section, Ms. Dawson retained equitable rights in the Vehicle that were protected by the automatic stay including possession and the right of redemption. Accordingly, RAM Motors disturbed the status quo as it existed on the date of the bankruptcy filing when it affirmatively repossessed the vehicle post-petition.

<sup>4</sup> If RAM Motors no longer possesses the Vehicle, then RAM Motors must pay Ms. Dawson the value of her interest in the Vehicle. The appropriate calculation of the value of Ms. Dawson’s interest in the Vehicle is the fair market value of the Vehicle on the date of the bankruptcy filing subtracting out the amount of debt she owed to RAM Motors as of that date. *See Davis v. JL Auto Sales (In re Davis)*, 651 B.R. 192, 196 (Bankr. D. S.C. 2023) (including as part of an appropriate remedy for repossession of a vehicle in violation of the automatic stay, the value of the vehicle less the amount of debt the debtor owed on the vehicle).

“A ‘willful violation’ does not require proof of a specific intent to violate the stay. Rather, ‘[a] violation of the automatic stay can be willful when the creditor knew of the stay and violated the stay by an intentional act.’” *In re Dougherty-Kelsay*, 601 B.R. 426, 447 (Bankr. E.D. Ky. 2019) *aff’d* 636 B.R. 889 (B.A.P. 6th Cir. 2022) (quoting *TranSouth Fin. Corp. v. Sharon (In re Sharon)*, 234 B.R. 676, 687 (6th Cir. B.A.P. 1999)). “Indeed, ‘where the creditor received actual notice of the automatic stay, courts must presume that the violation was deliberate.’” *Id.* (further citations omitted).

According to the undisputed evidence on summary judgment, RAM Motors was provided with notice of the bankruptcy filing through the § 341 Meeting of Creditors Notice issued in this case and through communication from Ms. Dawson’s counsel to RAM Motors. RAM Motors admits that this notice occurred prior to its act of repossessing the Vehicle. With these facts, Ms. Dawson has demonstrated that RAM Motors’s repossession of the Vehicle amounts to a “willful” violation of the automatic stay under § 362(k).

#### **D. Award of Damages**

Proof of a willful violation of the automatic stay entitles the debtor to “actual damages, including costs and attorneys’ fees, and in appropriate circumstances, . . . punitive damages.” 11 U.S.C. § 362(k)(1). The debtor must demonstrate that actual damages were “‘proximately caused by and reasonably incurred as a result of the violation of the automatic stay.’” *In re Baer*, No. 11-8062, 2012 Bankr. LEXIS 2849, at \*27, 2012 WL 2368698, at \*10 (B.A.P 6th Cir. June 22, 2012) (further citation omitted). The debtor must be able to demonstrate the amount of damages incurred and support her claim with evidence. *Id.* A bare statement by the debtor that damages were incurred will be insufficient to support an award of actual damages under § 362(k). *Id.*

On summary judgment, Ms. Dawson submits her affidavit attesting to \$3,397.47 in actual damages caused by the repossession of her Vehicle [Docket Number 21, Ex. G]. She attests that RAM Motors's repossession forced her to initially borrow vehicles from family and friends so she could work, then rent a vehicle with a loan from her mother, and finally purchase a different vehicle altogether. In response, RAM Motors argues that Ms. Dawson failed to describe her actual damages with particularity. However, in her affidavit, Ms. Dawson breaks down her actual damages as follows: 1) \$687.47 to rent a vehicle from Budget; and 2) \$2,710.00 to purchase another vehicle, a 2008 Saturn Vue [*Id.*, at ¶¶ 10-11]. Furthermore, she attaches to her affidavit both the Budget Rental Agreement and the Purchase Agreement for the Saturn Vue which support the monetary amounts asserted [*Id.*]. Given the length of time that Ms. Dawson has been without her Vehicle, this Court concludes that her actions in renting and eventually buying another vehicle were reasonable and proximately caused by the repossession. Furthermore, this Court concludes that the amount of actual damages in Ms. Dawson's affidavit has been set forth with sufficient particularity.

Next, RAM Motors argues that even if it did not repossess the Vehicle, Ms. Dawson would be unable to legally operate it because RAM Motors continues to hold a repossession title. Notwithstanding the questions raised by Ms. Dawson regarding the legality and validity of RAM Motors's repossession title, RAM Motors's argument fails to take into account the right to redeem and the potential for reaffirmation as methods afforded a debtor to retain a vehicle following a bankruptcy filing. Accordingly, RAM Motors's legal arguments with respect to actual damages are without merit. The undisputed evidence supports actual damages proximately caused by RAM Motors's willful violation of the automatic stay in the amount of \$3,397.47, excluding attorney fees and costs.

In addition to actual damages, Ms. Dawson requests punitive damages of \$1,000.00 per month for the time she was deprived of the Vehicle totaling \$12,000.00.<sup>5</sup> A party injured by a willful violation of the stay may recover punitive damages in appropriate circumstances. *See* 11 U.S.C. § 362(k). “A party seeking punitive damages under § 362(k) must demonstrate that the creditor’s conduct was ‘egregious, vindictive, or intentionally malicious.’” *In re Baer*, 2012 Bankr. LEXIS 2849, at \*28, 2012 WL 2368698, at \*10 (B.A.P. 6th Cir. June 22, 2012) (citing *In re Bivens*, 324 B.R. 39, 42 (Bankr. N.D. Ohio 2004)). ““While proof of an overt wrongful intent is not required, it must be shown that the creditor acted in bad faith or otherwise undertook its actions in reckless disregard of the law.”” *In re Witham*, 579 B.R. 787, 795 (Bankr. E.D. Ky. 2017) (quoting *Springer v. RNBJRTO LLC (In re Springer)*, 2017 Bankr. LEXIS 2304, at \*15, 2017 WL 3575859, at \*6 (Bankr. W.D. Ky. Aug. 16, 2017) (citing *Baer*, 2012 Bankr. LEXIS 2849, at \*28, 2012 WL 2368698 at \*10)).

In this instance, RAM Motors’s undisputed post-petition actions were egregious and in reckless disregard of the law. First, RAM Motors repossessed the Vehicle two weeks post-petition with knowledge of Ms. Dawson’s bankruptcy filing. Following the repossession, Ms. Dawson’s attorney sent a letter to RAM Motors reminding the creditor of Ms. Dawson’s bankruptcy filing and requesting return of the Vehicle. While admitting to receipt of the communication, RAM Motors refused to return the Vehicle, thus, failing to rectify the situation and forcing Ms. Dawson’s attorney to proceed with filing an adversary complaint. To this day, RAM Motors remains in possession of the Vehicle (or has disposed of the Vehicle) in violation of the automatic stay.

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<sup>5</sup> The time was calculated from the date the Vehicle was repossessed to the date the motion for summary judgment was filed.

Accordingly, this Court finds an award of punitive damages to be warranted both for the nature of RAM Motors's continuing violation and to achieve deterrence in the future. Although the amount of punitive damages awarded varies widely among courts, this Court finds that the amount requested, \$12,000.00, to be appropriate and in line with what other courts have awarded for similar conduct in recent cases. *See, e.g., Davis v. JL Auto Sales (In re Davis)*, 651 B.R. 192, 195 (Bankr. D. S.C. 2023) (awarding \$12,000.00 in punitive damages for the creditor's repossession of a vehicle after the bankruptcy filing and in violation of the provisions of the debtor's chapter 13 plan); *Hamby v. Richard Fouts (In re Hamby)*, 646 B.R. 865, 878 (Bankr. N.D. Ga. 2022) (awarding punitive damages of \$17,800 for noncompliance with a turnover order and an additional \$14,732.53 in punitive damages representing the amount of debt owed on a vehicle that was repossessed by the creditor after the bankruptcy filing and not returned even after a turnover order was entered); *In re Franklin*, 614 B.R. 534, 550-52 (Bankr. M.D. N.C. 2020) (conducting a thorough analysis of other courts' punitive damage awards leading the court to award punitive damages of \$12,000.00 relating to the creditor's post-petition repossession of a vehicle with knowledge of the bankruptcy case and refusal to return the vehicle upon request).

Finally, Ms. Dawson seeks an award of attorney's fees and costs. Section 362(k) mandates the recovery of attorney fees as part of a debtor's actual damages when injured by a willful violation of the automatic stay. *See* 11 U.S.C. § 362(k); *see also In re Johnson*, 580 B.R. 766, 769 (Bankr. S.D. Ohio 2018) (noting that § 362(k)(1) "mandates the recovery of reasonable attorneys' fees and expenses incurred as a result of willful violations of the stay"). However, the provision "does not specify a standard by which attorney's fees and costs are to be evaluated, but it is generally accepted that 'fees must be reasonable' and 'should bear a reasonable relationship to the amount in controversy.'" *In re Witham*, 579 B.R. at 794 (further citation omitted) (noting that the

reasonable fees could include amounts needed to retain an attorney to call or write a creditor to demand that it end its actions violating the stay and, if those efforts fail, can include the pursuit of an action to end a stay violation and recover damages). In this case, Ms. Dawson's counsel offers to supplement the record with the attorney fees and costs incurred in counsel's attempt to recover the Vehicle and pursue this litigation. This Court agrees with this sound approach and will allow Ms. Dawson's counsel to supplement the record with a statement itemizing reasonable attorney fees and costs and will further give RAM Motors an opportunity to respond.

#### IV. CONCLUSION

In conclusion, this Court GRANTS Ms. Dawson's motion for summary judgment [Docket Number 21] to the following extent:

1. The undisputed facts support that RAM Motors, LLC willfully violated the automatic stay when it repossessed Ms. Dawson's Vehicle after the bankruptcy filing;
2. RAM Motors, LLC's post-petition actions are void and, accordingly, RAM Motors, LLC shall return to Ms. Dawson the 2007 Lexus sedan that it repossessed or pay Ms. Dawson the value of her interest therein (*see* Footnote 4);
3. In addition to the return of the Vehicle, Ms. Dawson is awarded actual damages (exclusive of attorney fees and costs) against RAM Motors, LLC in the amount of \$3,397.47;
4. Ms. Dawson is awarded punitive damages against RAM Motors, LLC in the amount of \$12,000.00;
5. Ms. Dawson is entitled to recover reasonable attorney fees and costs. Counsel shall file a statement of itemized attorney fees and costs for the attempts to recover the Vehicle and for litigation of this matter **on or before January 24, 2025**. Any response or objection to the reasonableness or amount of attorney fees and costs shall be filed **on or before February 14, 2025**; and,

6. Any further relief requested in the motion for summary judgment is denied.<sup>6</sup>

This Court will enter a final judgment and award of damages once a determination is made on the amount of attorney fees and costs to be awarded.

**SO ORDERED.**

Distribution List:

Nicholas A. Zingarelli, Esq.  
Elizabeth Tull Laureano, Esq.  
Christopher T. Travis, Esq.

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<sup>6</sup> In addition to the claims for turnover and willful violation of the automatic stay, Ms. Dawson also requested summary judgment with respect to RAM Motors's alleged violations of state laws. However, Ms. Dawson seeks no specific damages with respect to the state law claims and, furthermore, at least some of the state law claims are based on RAM Motors's prepetition actions. Because prepetition claims become property of the bankruptcy estate, Ms. Dawson may lack standing to raise the claims. *See In re Malloch v. Newmark Homes of Mich., Inc. (In re Malloch)*, 613 B.R. 252, 253 (Bankr. E.D. Mich. 2020) (concluding that prepetition claims are part of the bankruptcy estate and, unless or until such claims are abandoned, only the chapter 7 trustee has standing to pursue them on behalf of creditors); *In re Bailey*, 421 B.R. 841, 848-50 (Bankr. N.D. Ohio 2009) (noting that so long as a debtor's prepetition legal claim remains part of the bankruptcy estate, only the chapter 7 trustee has standing to pursue the claim). Accordingly, to the extent Ms. Dawson seeks summary judgment on the state law claims, summary judgment is denied.