

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE

IN RE
VICKKI LOGAN,
Debtor.

Case No. 97-25255-WHB
Chapter 13

VICKKI LOGAN,
Plaintiff,

VS

Adversary Proceeding 97-0492

WORLD OVER AUTO SALES, LTD.,
Defendant.

ORDER AWARDING DAMAGES FOR WILLFUL VIOLATION OF
AUTOMATIC STAY AND SETTING TURNOVER COMPLAINT FOR FINAL HEARING

On May 7, 1997, this Court entered its Order, which was mailed to World Over Auto Sales, Ltd. on that same date, giving World Over Auto Sales, Ltd. notice of a final hearing on the debtor's motion for monetary damages under 11 U.S.C. § 362(h). World Over Auto Sales, Ltd., or its legal representative, failed to appear for that hearing on May 21, 1997, and at that time the Court heard proof from the debtor concerning her damages, as well as further proof from the debtor concerning the circumstances of the repossession of her car after she had filed for bankruptcy relief under Chapter 13.

From that proof, the Court finds that the debtor advised the repossession agent and a representative of World Over Auto Sales that she had filed for bankruptcy relief prior to the repossession, and that notwithstanding that notice the debtor's vehicle was repossessed after the bankruptcy filing. The Court further finds that the repossession constituted a willful violation of the automatic stay, and that the debtor is entitled to monetary damages, both actual and punitive, for that

violation, which continues until the present time.

The debtor's proof of damages included \$114.00 for loss of three days work, \$40.00 for payments to a friend for transportation, and \$65.00 for transportation of her child to day care, for a total of \$219.00 in actual damages. In addition, the debtor has incurred \$500.00 in attorney fees related to the willful violation of the automatic stay and the attempts to recover her automobile, and these fees constitute additional actual damages. The Court finds that punitive damages are appropriate in the amount of the debtor's weekly car payments, \$87.00 per week until the creditor either turns over the vehicle to the debtor or provides a valid explanation to the Court concerning the failure to turn over the vehicle.

IT IS THEREFORE ORDERED that a judgment for the debtor's actual damages and for the punitive damages shall be entered in the following amounts: The debtor shall be awarded a judgment for \$719.00 in actual damages, and for \$87.00 per week in punitive damages, which punitive damages shall begin with the entry of this Order and shall continue week to week until the creditor World Over Auto Sales, Ltd. turns over the debtor's car to the debtor or provides to the Court a valid explanation of the creditor's failure to turn over the vehicle.

IT IS FURTHER ORDERED that the debtor's turnover complaint shall be reset for a final hearing on June 4, 1997 at 9:59 a.m. in Courtroom 680, at 200 Jefferson Avenue, Memphis, Tennessee. At that time, World Over Auto Sales, Ltd., should appear through its legal representative to defend the turnover complaint. Its failure to appear may result in a finding that the creditor has willfully failed to turnover the vehicle and that punitive damages may continue to accrue.

UNITED STATES BANKRUPTCY JUDGE
DATED: May 23, 1997

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