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UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

Jeffrey Warren Stacey, Debtor.	Case No. 16-61602-tmr13
<hr/>	Adv. Proc. No.
Jeffrey Warren Stacey, Plaintiff,	COMPLAINT
v.	11 U.S.C. § 362(k)
BMW Financial Services NA, LLC, Defendant.	

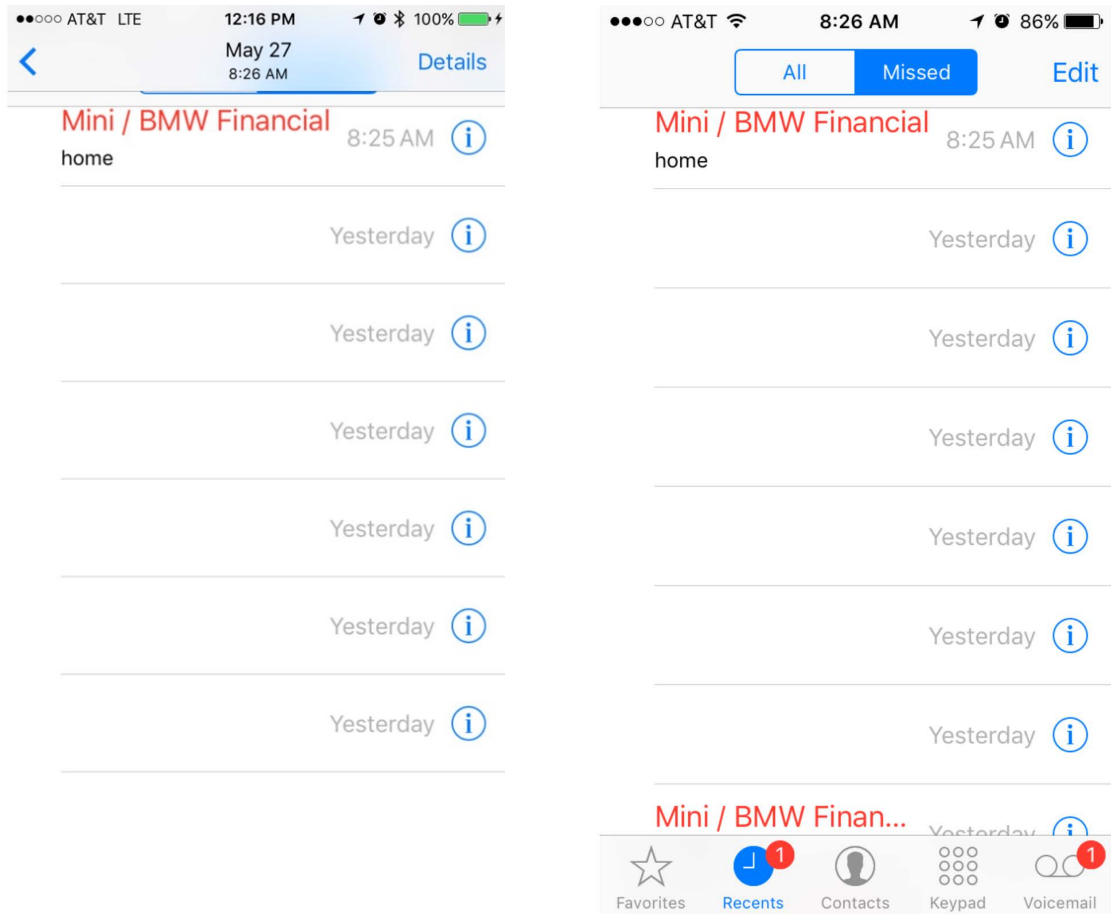
1.

INTRODUCTION

Prior to filing this lawsuit, plaintiff repeatedly gave defendant notice of his bankruptcy and asked defendant to stop harassing him with unwanted collection calls.

2.

Plaintiff has a right to be free from unwanted collection calls and threats during his bankruptcy.



3.

Defendant's willful violation of the automatic stay caused plaintiff sleepless nights, upset stomach, and other significant emotional harm distinct from the inherent stress of the normal bankruptcy process.

4.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1334 because the automatic stay arises under Title 11.

5.

Plaintiff Jeffrey Warren Stacey filed Chapter 13 bankruptcy in case number 16-61602-tmr13 in the District of Oregon on May 25, 2016.

6.

Defendant BMW Financial Services NA, LLC is a Delaware limited liability company and its Oregon registered agent is C T Corporation System, 388 State St Ste 420, Salem, Oregon 97301.

7.

Venue is proper because defendant attempted to collect from plaintiff while he was under the protection of the Oregon Bankruptcy Court's automatic stay.

8.

NATURE OF CLAIM

Plaintiff's automatic stay claim is a core proceeding under 28 U.S.C. § 157(b)(2) (see *In re Gruntz*, 202 F.3d 1074, 1081 (9th Cir. 2000); *In re Goodman*, 991 F.2d 613, 617 (9th Cir. 1993)) and plaintiff consents to entry of final orders and judgments by the Oregon Bankruptcy Court in this adversary proceeding.

9.

FACTUAL ALLEGATIONS

This complaint's allegations are based on personal knowledge as to plaintiff's conduct and made on information and belief as to the acts of others.

10.

Defendant received actual notice of the automatic stay in plaintiff's case from the bankruptcy noticing center and from plaintiff multiple times, including by mail, fax, and over the phone.

11.

After receiving actual notice of the automatic stay, defendant intentionally harassed plaintiff with coercive collection calls to pay its pre-petition debt.

12.

Defendant's conduct as alleged above caused plaintiff sleepless nights, upset stomach, and other significant emotional harm distinct from the inherent stress of the normal bankruptcy process.

13.

The bankruptcy notice provided to defendant warned that violating the automatic stay could subject it to penalties.

14.

Defendant's conduct as alleged above was in pursuit of profit, and constituted a wanton, outrageous and oppressive violation of plaintiff's right to be free from collection activities during bankruptcy.

15.

CAUSE OF ACTION

(11 U.S.C. § 362(k))

Plaintiff incorporates the allegations above by reference.

16.

Defendant's violation of 11 U.S.C. § 362(a)(6) as alleged above was "willful" as that term is defined in the Ninth Circuit because its conduct was intentional, it had prior actual knowledge of the automatic stay from multiple sources, its conduct was unreasonable, and any alleged mistake of law was not a defense.

17.

Under 11 U.S.C. § 362(k), plaintiff is entitled to compensation for actual damages, proportional punitive damages, and reasonable fees and costs from defendant in amounts to be decided by the Court.

PRAYER FOR RELIEF

After a stipulation or determination that defendant willfully violated the automatic stay, plaintiff seeks relief as follows:

- A. Money Judgment** in favor of plaintiff against defendant for actual damages and punitive damages, and
- B. Money Judgment** in favor of the law firm of Olsen Daines PC against defendant for reasonable fees and costs incurred prosecuting this adversary proceeding.

Plaintiff also seeks any equitable relief this Court may determine is fair. Plaintiff may intend to amend this complaint to include additional claims as new information about defendant's dialing system is learned through discovery.

October 29, 2016

RESPECTFULLY FILED,

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