

THE FOLLOWING ORDER  
IS APPROVED AND ENTERED  
AS THE ORDER OF THIS COURT:

DATED: December 3, 2019



  
G. Michael Halfenger  
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In re:

Ryan David Ebert,  
  
Debtor.

Case No. 18-31065-gmh  
Chapter 13

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**ORDER DENYING MOTION FOR RELIEF FROM STAY AND CO-DEBTOR STAY  
AND  
REQUIRING THE PARTIES AND THEIR COUNSEL TO SHOW CAUSE WHY THE  
COURT SHOULD NOT SANCTION THEM FOR MAKING MERITLESS FILINGS**

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AmeriCredit Financial Services, Inc., moves for relief from the stays imposed by sections 362(a) and 1301 of the Bankruptcy Code, 11 U.S.C. §§362(a) and 1301, seeking freedom to exercise its collateral rights in a vehicle co-owned by the debtor and Ms. Ammie Landrath. The motion is moot. Neither section 362(a)'s stay on collecting prepetition debts from estate property nor §1301's stay on collecting prepetition debts

from co-debtors applies to the vehicle. Section 362(a) doesn't apply because the debtor's confirmed plan provides for AmeriCredit's claim by surrendering the collateral and abandoning the property. Section 1301's co-debtor stay doesn't apply because the plan provides for its termination at confirmation and, again, for abandonment of the property. The plan is perfectly clear about all of this; it specifies, "Entry of an order confirming this plan immediately (1) terminates the stay under 11 U.S.C. § 362(a) as to the collateral only, and (2) terminates the stay under 11 U.S.C. § 1301; additionally, (3) the collateral is deemed abandoned under 11 U.S.C. § 554(b)." ECF No. 2, at 4.

AmeriCredit's motion, therefore, is meritless. The court cannot "lift" stays from collateral when, as here, those stays no longer apply to that collateral. And, to be clear, AmeriCredit's motion only requests that the court "lift" the stays, proceeding as if those stays are currently in effect. The motion does not seek a declaration that the stays do not apply because, for example, AmeriCredit's efforts to exercise its state-law collection rights in the collateral have been opposed or have met resistance in another forum. AmeriCredit simply ignores the legal effect of the proceedings in this case, electing instead to file a rote motion requesting that the court "lift" the statutory stays because the debtor failed to make payments. ECF No. 22, at 4.

The debtor meets the AmeriCredit's meritless motion with a frivolous objection and request for a hearing. Like AmeriCredit's motion, the debtor's objection ignores the confirmed plan and presumes (wrongly, as we've seen) that the stays remain in effect as to the collateral. The objection implicitly concedes that amounts due AmeriCredit post-petition have not been timely paid, stating that the co-debtor, "Ms. Landrath[,] has been able to become current on her payments." ECF No. 24, at 1.

These parties have unnecessarily compounded litigation in this case in a way that has wrongfully delayed the court's adjudication of other matters. The parties' unsupportable filings required the court both to schedule and notice a hearing and to make an unassisted review of the record to determine the parties' respective rights.

Time spent adjudicating this meritless motion and preparing for the hearing frivolously requested could have been devoted to resolving the genuine disputes of other parties.

If ever there were a time when parties could file meritless requests for relief and demands for hearing without risk of sanction, that time has passed.

For these reasons, it is ordered that:

1. AmeriCredit's motion for relief from the automatic stay and the co-debtor stay is denied as moot.
2. The December 3, 2019 hearing on that motion is canceled.
3. The parties and their counsel are ordered to show cause in writing on or before December 10, 2019, why the court should not sanction the parties and their counsel under Federal Rule of Bankruptcy Procedure 9011(c)(1)(B) because they filed the frivolous pleadings described above in violation of Rule 9011(b)(1) & (2), and revoke their privileges to appear before this court telephonically and instead require the parties and their counsel to appear at all hearings in person for a minimum of six months.

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