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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re Dustin Cory Mayfield Kayla Sherine Mayfield, Debtors.
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DUSTIN CORY MAYFIELD, Plaintiff, v. PAYPAL, INC., Defendant.

Case No. 15-34792-tmb13
Adv. Proc. No. 15-03210-tmb
COMPLAINT
Willful Automatic Stay Violation
(11 U.S.C. § 362(k))

1.

INTRODUCTION

After receiving electronic notice that a user has filed bankruptcy, Paypal does not maintain (or chooses not to follow) procedures to stop demanding payment on pre-petition debt.

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2.

JURISDICTION

The United States District Court for the District of Oregon has jurisdiction of this action pursuant to 28 U.S.C. § 1334 because plaintiff’s automatic stay claim arises under Title 11.

3.

The United States Bankruptcy Court for the District of Oregon has jurisdiction of this action pursuant to 28 U.S.C. § 157 and LR 2100-1 because plaintiff’s claim arises in his bankruptcy case number 15-34792-tmb13, filed under Chapter 13 of Title 11 in this United States Bankruptcy Court for the District of Oregon.

4.

NATURE OF CLAIMS

Plaintiff’s automatic stay claim is a core proceeding under 28 U.S.C. § 157(b)(2) (*see Gruntz v. County of Los Angeles (In re Gruntz)*, 202 F.3d 1074, 1081 (9th Cir. 2000); *Johnston Env’tl Corp. v. Knight (In re Goodman)*, 991 F.2d 613, 617 (9th Cir. 1993)) and plaintiff consents to entry of final orders and judgments by the bankruptcy judge in this adversary proceeding.

5.

THE PARTIES

Plaintiff Mr. Dustin Mayfield (“plaintiff”) is an individual living in Redmond, Oregon who filed for bankruptcy protection under Chapter 13 of Title 11 on October 13, 2015.

6.

Defendant Paypal, Inc. (“Paypal”) was listed as an unsecured creditor in plaintiff’s bankruptcy schedules.

7.

Paypal is regularly listed in consumer cases under Title 11 and is familiar with the rules governing bankruptcy.

8.

Paypal is one of the largest internet payment companies in the world with over 150 million users.

9.

Paypal's payment systems transfer hundreds of billions of dollars each year.

10.

As of the date of this complaint, Paypal and its related parent companies and subsidiaries have a net worth of nearly \$50 billion.

11.

Venue is proper in this district because plaintiff resides here, Paypal regularly attempts to collect debt from users living here, and a substantial part of the acts, events, and/or omissions giving rise to this controversy took place in this district.

12.

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

13.

FACTUAL ALLEGATIONS SPECIFIC TO PLAINTIFF

On October 14, 2015, plaintiff filed for bankruptcy protection under Chapter 13 of Title 11. Prior to the commencement of plaintiff's bankruptcy case, he owed an unsecured debt to Paypal.

14.

On or around October 15, 2015, Paypal received notice of the automatic stay in plaintiff's case from the bankruptcy noticing center.

15.

After receiving actual notice of the automatic stay, Paypal intentionally harassed plaintiff for no legitimate reason in writing in an attempt to collect its pre-petition debt from him.

16.

Paypal's conduct as alleged above violated the automatic stay, including and not limited to 11 U.S.C. § 362(a)(6).

17.

As a direct and proximate result of Paypal's conduct as alleged in this complaint, plaintiff suffered severe ongoing emotional harm and stress consistent with collector harassment to be proved at trial.

18.

PAYPAL'S PATTERN AND PRACTICE IN THE DISTRICT OF OREGON

On July 20, 2015, Denise Johnson filed for bankruptcy protection under Chapter 13 of Title 11 in case number 15-62456-tmr13. Prior to the commencement of Mrs. Johnson's bankruptcy case, she owed an unsecured debt to Paypal.

19.

On or around July 21, 2015, Paypal received notice of the automatic stay in Mrs. Johnson's case from the bankruptcy noticing center.

20.

Paypal also received verbal notice of the automatic stay and that Mrs. Johnson was represented by an attorney and wished to be left alone.

21.

After receiving actual notice of the automatic stay, Paypal intentionally harassed Mrs. Johnson for no legitimate reason in writing and over the phone in an attempt to collect its pre-petition debt from her.

22.

Paypal's conduct as alleged above violated the automatic stay, including and not limited to 11 U.S.C. § 362(a)(6).

23.

As a direct and proximate result of Paypal's conduct as alleged above, Mrs. Johnson suffered severe ongoing emotional harm and stress consistent with collector harassment.

24.

PUNITIVE DAMAGES

After receiving electronic notices that its users have filed bankruptcy, Paypal does not maintain (or chooses not to follow) procedures to stop demanding payment on pre-petition debt.

25.

Paypal's harassment of plaintiff as alleged in this complaint constituted a malicious, wanton, and oppressive violation of plaintiff's right to be free from unwanted creditor communications during the pendency of the automatic stay in his chapter 13 bankruptcy case.

26.

Paypal's willful systematic ongoing violation of the automatic stay and disregard for the bankruptcy rules as alleged in this complaint stood to give Paypal an unfair advantage over other unsecured creditors that chose to follow the law.

27.

Paypal's blatant disregard for the bankruptcy rules is shocking and outrageous. Paypal's conduct as alleged in this complaint constituted extraordinary transgressions of socially tolerable behavior based on the social standards in plaintiff's community because Paypal's conduct constituted a deliberate and arrogant defiance of the fundamental rules governing bankruptcy.

28.

Paypal should pay punitive damages in accordance to the harm it caused plaintiff, in an amount that will make it profitable for Paypal to finally implement and follow procedures to avoid violating the bankruptcy rules in the future.

29.

CAUSE OF ACTION

CLAIM ONE

(Willful Violation of the Automatic Stay – Damages)

Plaintiff incorporates the above allegations by reference.

30.

Paypal’s conduct as alleged in this complaint willfully violated the automatic stay in plaintiff’s bankruptcy case, including and not limited to 11 U.S.C. § 362(a)(6), because Paypal knew of the automatic stay, and its intentional conduct as alleged above violated the automatic stay.

31.

Paypal’s violation of the automatic stay as alleged above was “willful” as that term is defined in the Ninth Circuit because Paypal’s conduct was intentional, Paypal had prior actual knowledge of the automatic stay, Paypal’s repeated refusal to leave plaintiff alone was unreasonable, Paypal knew plaintiff was represented by an attorney, Paypal knew plaintiff had no interest in reaffirmation or voluntary payments, Paypal knew plaintiff did not use its service after filing bankruptcy, and any alleged mistake of law was not a defense.

32.

Plaintiff was injured as a result of Paypal’s willful violation, and so is entitled to compensation for his actual damages, and punitive damages, pursuant to 11 U.S.C. § 362(k).

33.

CLAIM TWO

(Willful Violation of the Automatic Stay – Attorney Fees and Costs)

Plaintiff incorporates the above allegations by reference.

34.

As a direct result of Paypal's willful automatic stay violation, the law firm of Olsen Daines PC is entitled to an award reimbursing it for its reasonable attorney fees and costs, pursuant to 11 U.S.C. § 362(k).

WHEREFORE, after a stipulation or determination that Paypal's conduct as alleged in this complaint willfully violated the automatic stay, plaintiff prays for relief as follows:

- A. An award of compensation for actual damages in favor of Dustin Mayfield against Paypal, Inc.;
- B. An award of punitive damages in favor of Dustin Mayfield against Paypal, Inc.;
- C. An award of reasonable attorney fees and costs directly to Olsen Daines PC against Paypal, Inc.; and
- D. For other equitable relief this Court may determine is fair and just.

DATED: December 18, 2015

RESPECTFULLY FILED,

/s/ Michael Fuller

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