

**IT IS SO ORDERED.**

**Dated: 02:46 PM July 18 2007**



MARILYN SHEA-STONUM *JS*  
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE:	)	CASE NO.: 07-50460
	)	
Kathryn F. Collyer,	)	CHAPTER 7
	)	
DEBTOR(S).	)	JUDGE MARILYN SHEA-STONUM
	)	
	)	ORDER DENYING MOTION FOR
	)	ENTRY OF ORDER CONFIRMING
	)	TERMINATION OF AUTOMATIC STAY

This matter is before the Court on the Motion (the "Motion") of DaimlerChrysler Fin. Servs. Amers. LLC sbmt DaimlerChrysler Servs. NA LLC (the "Creditor") for the entry of an order confirming the termination of the automatic stay pursuant to 11 U.S.C. § 362(j) with respect to a 2004 Jeep Liberty. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G) over which this Court has jurisdiction pursuant to 28 U.S.C. § 1334.

Kathryn F. Collyer (the "Debtor") filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code on February 20, 2007. The Debtor's Schedule B lists two vehicles: a 1994

Plymouth Acclaim and a 2002 Chrysler Sebring; and according to Schedule D, Chrysler Financial holds a security interest in the 2002 Sebring and National City Bank holds a security interest in the 1994 Plymouth Acclaim. The Debtor's Statement of Intention states that the Debtor intends to reaffirm the debt with respect to the 2002 Sebring and to surrender the 1994 Plymouth Acclaim. The Debtor's petition does not list a 2004 Jeep Liberty nor does it list the Creditor as a secured creditor on schedule D. However, the Debtor lists Chrysler Financial as the holder of an unsecured claim arising from a car loan for which she co-signed on Schedule F. Similarly, Schedule H lists John Collyer as a co-debtor with respect to an obligation owed to Chrysler Financial.

The Creditor attached, as Exhibit A to the Motion, a copy of a retail installment contract (the "Contract") dated December 23, 2003 between John R. Collyer, Buyer; Kathryn Collyer, Co-Buyer and Brunswick Automart, Inc., Seller for the purchase of a 2004 Jeep Liberty. The Contract shows a "94 Ford" as a trade-in and shows the Creditor as assignee. Creditor did not attach a copy of a title for the 2004 Jeep Liberty to its Motion.

In its Motion, the Creditor asserts that "the Debtor has not performed the stated intention with respect to the ... 2004 Jeep Liberty." Therefore, the Creditor argues, pursuant to the provisions of §§ 362(c), (h) and (j), that the stay as to the 2004 Jeep Liberty is terminated. The Creditor seeks the entry of a comfort order confirming that termination with respect to the 2004 Jeep Liberty. Based on the record before it, the Court cannot determine whether or to what extent the 2004 Jeep Liberty is property of the Debtor's estate subject to the provisions of § 362.

Further, to the extent the Motion is predicated upon 11 U.S.C. § 362(j), that section provides that "on request of a party in interest, the court shall issue an order under subsection (c)

[of Section 362 of the Bankruptcy Code] confirming that the automatic stay has been terminated.”

Id. However, the Creditor has not argued for termination of the stay in this case pursuant to subsection c of § 362 of the Bankruptcy Code, but rather has requested relief pursuant to subsection h of § 362. Section 362(c) specifically excludes subsection h from its scope. Therefore, entry of a “comfort order” under § 362(j) is not appropriate when the stay allegedly has been terminated under § 362(h). *In re Conley*, 358 B.R. 337, 338 (Bankr. N.D. Ohio 2006); *See In re Grossi*, 2007 WL 1066483, \*1 (Bankr. E.D. Va. 2007), *In re Dienberg*, 348 B.R. 482, 487 (Bankr. N.D. Ind. 2006) (limiting comfort orders to situations involving the operation of provisions of § 362(c)).

For the foregoing reasons, the motion of DaimlerChrysler Fin. Servs. Amers. LLC sbmt DaimlerChrysler Servs. NA LLC seeking a “comfort order” confirming the termination of the automatic stay is DENIED.

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cc: via electronic mail  
Chris D. Carey  
Marc Gertz  
Gregory Stout

via U.S. mail  
Kathryn Collyer