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FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2007 30 APR 15
UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re:) Case No. 02-11245
)
BEVERLY HANNAH,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
AUTOMOTIVE CREDIT CORPORATION,) Adversary Proceeding No. 02-1152
)
Plaintiff,)
)
v.)
) **MEMORANDUM OF OPINION**
INTEGRITY RECOVERY, INC.,)
)
Defendant.)

I. PROCEDURAL HISTORY AND FACTUAL ALLEGATIONS

American Automotive Credit Corporation (“Automotive”) and Integrity Recovery, Inc. (“Integrity”) had a contract under which Integrity repossessed cars for Automotive. The Debtor claims that Integrity came to her home post-petition to repossess her car. Although the Debtor explained that she had filed for bankruptcy and produced supporting documentation, Integrity insisted it was taking the car. Integrity blocked the Debtor’s driveway to prevent her from removing the car and eventually had it towed.

The Debtor filed a motion in the main bankruptcy case for an Order on Automotive to Show Cause why it should not be sanctioned based on the manner in which its agent Integrity carried out the repossession. (Case No. 02-11245; Docket 4). Automotive then filed this adversary proceeding against Integrity alleging that Integrity must hold Automotive harmless under their contract for any liability incurred during that repossession. The Debtor and

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Automotive had agreed to have the Debtor's motion decided as part of the adversary proceeding. Integrity, however, moves to dismiss the adversary proceeding on the ground that the Court lacks subject matter jurisdiction over this dispute between two non-debtors that will not affect the bankruptcy estate. (Docket 11, 16). Automotive argues that jurisdiction exists because the adversary proceeding is related to the bankruptcy case and it would be efficient to determine the sanctions motion and the adversary proceeding in the same forum. (Docket 12). For the reasons that follow, the motion is granted.

II. DISCUSSION

District courts have original but not exclusive jurisdiction over all civil proceedings arising under Title 11 of the United States Code or arising in or related to cases under Title 11. 28 U.S.C. § 1334(b). They may if they wish refer any such cases to the bankruptcy courts in their district. 28 U.S.C.A. §157(a). The District Court for the Northern District of Ohio has entered such a general reference. *See* General Order No. 84. Automotive limits its argument to a claim that jurisdiction exists because this adversary proceeding is "related to" the Chapter 7 case.

To determine whether a proceeding is related to a bankruptcy case, courts look to whether "the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy." *In re Dow Corning Corp.*, 86 F.3d 482, 489 (6th Cir. 1996), quoting with approval *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir. 1984). In particular, an action is related to a bankruptcy case if the result of the action could affect the debtor's rights, liabilities, options, or freedom of action and if it would have any impact on the administration of the bankrupt estate. *Id.* While the Sixth Circuit has held that this jurisdictional grant is broad, it has also cautioned that situations may arise when the connection to the bankruptcy case is extremely tenuous and jurisdiction is simply not appropriate. *In re Dow Corning Corp.* at 489,

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quoting *Robinson v. Mich. Consol. Gas Co., Inc.*, 918 F.2d 579, 584 (6th Cir. 1990).

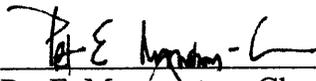
In this case, the connection between the adversary proceeding and the Chapter 11 case is too tenuous to support jurisdiction. This is a contract dispute between two non-debtors that will be interpreted according to state law. If the dispute is resolved in favor of Automotive, Integrity will be liable to Automotive; if it is resolved against Automotive, Integrity will not be liable to Automotive. In either event, the outcome will not affect the Debtor or the Debtor's estate. The Debtor's rights will, instead, be adjudicated via the motion she filed against Automotive in the main bankruptcy case. If Automotive is found liable to the Debtor, then Automotive will be required to compensate the Debtor as provided for by statute. *See* 11 U.S.C. § 362(h). Automotive will then be able to pursue its contract rights against Integrity in the state courts, but that pursuit will not affect the Debtor or the bankruptcy estate.

Automotive may well be correct that it would be more efficient for one court to hear both the Debtor's grievance against Automotive and Automotive's complaint against Integrity. Convenience and judicial economy cannot, however, create jurisdiction where none exists.

III. CONCLUSION

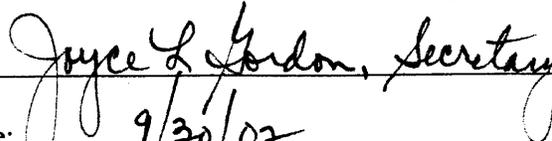
Because the Court does not have subject matter jurisdiction over this adversary proceeding, the Motion to Dismiss is granted. A separate order reflecting this decision will be entered.

Date: 30 September 2002



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Deborah Ecker, Esq.
Edward Bailey, Esq.
Burl Robinette, Esq.

By: 
Date: 9/30/02

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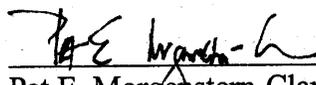
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Debtor.) Judge Pat E. Morgenstern-Clarren
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AUTOMOTIVE CREDIT CORPORATION,) Adversary Proceeding No. 02-1152
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Plaintiff,)
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v.)
) **ORDER**
INTEGRITY RECOVERY, INC.,)
)
Defendant.)

For the reasons set forth in the Memorandum of Opinion issued this same date, the Motion to Dismiss is granted.

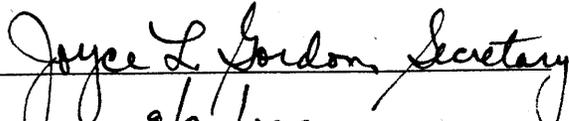
IT IS SO ORDERED.

Date: 30 Sept 02



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge

Served by mail on: Deborah Ecker, Esq.
Edward Bailey, Esq.
Burl Robinette, Esq.

By:  Secretary
Date: 9/30/02