

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document has been entered electronically in the record of the United States Bankruptcy Court for the Northern District of Ohio.



Dated: June 26 2007

Mary Ann Whipple
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

In Re:)	Case No. 07-32270
)	
Kandice Kanan,)	Chapter 7
)	
Debtors.)	
)	JUDGE MARY ANN WHIPPLE

ORDER REGARDING STIPULATION

This case is before the court on a Stipulation [Doc. # 11] filed by Creditor/Lessor Cab East LLC. Pursuant to the Stipulation, Cab East and Debtor stipulate to entry of an order approving Debtor’s assumption of a prepetition vehicle lease agreement and state that Debtor “waives the effect, if any, the discharge under 11 U.S.C. § 524(a) has as to the assumed Lease Agreement.” Cab East submitted a proposed order that approves the assumption of the lease and Debtor’s waiver of the effect of discharge on the lease agreement.

Section 365(p), a new provision of the Bankruptcy Code that was added by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, permits a debtor to assume a lease of personal property. 11 U.S.C. § 365(p). Neither that section nor the Federal Rules of Bankruptcy Procedure require or contemplate judicial involvement in the process. *In re Rogers*, 359 B.R. 591, 593 (Bankr. D.S.C. 2007). The court, therefore, declines to enter an order either approving or disapproving the assumption of the lease agreement.

The court also declines to enter an order validating that Debtor waives the effect of discharge on the

lease agreement absent compliance with the procedures set forth under § 524(c). Under that section, “[a]n agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title,” a so called reaffirmation agreement, is not enforceable “whether or not discharge of such debt is waived” unless specified procedures are followed with respect to those agreements. 11 U.S.C. § 524(c). An agreement to assume a lease of personal property entered into under § 365(p) is an agreement between a holder of a claim and the debtor as described in § 524(c). *In re Creighton*, 2007 WL 541622, at * 3 (Bankr. D. Mass. 2007). Such an agreement, therefore, “when not otherwise excepted from discharge by § 523(a), is an agreement to which § 524(c) pertains; it is a species of reaffirmation agreement. *Id.*

THEREFORE, for the foregoing reasons, the court declines to approve the Stipulation [Doc. # 11] and will not enter the court order submitted by Cab East LLC.