

**The United States Bankruptcy Court for the District of Maryland held that a Landlord did not violate the automatic stay imposed by § 362 with its eviction proceedings, but that it did violate the discharge injunction imposed by § 524(a) by filing a post-discharge action to collect unpaid post-petition rent after the lease was rejected by the Trustee.**

***In re Quiana Baxter*, 2015 Bankr. LEXIS 3492 (Bankr. D. Md. October 15, 2015).**

Summary by Marissa K. Lilja, Tydings & Rosenberg LLP

In *In re Quiana Baxter*, the Honorable Judge David E. Rice considered whether or not a corporate landlord (“Landlord”) violated the automatic stay imposed by 11 USCS § 362(a) and the injunction imposed by § 524(a) when it continued eviction proceedings during the course of the Chapter 7 case and then filed an action, post-discharge, to recover unpaid post-petition rents from the individual Chapter 7 Debtor. The Debtor reopened her bankruptcy case and filed an adversary proceeding to have these issues determined by the Court. Judge Rice held that the eviction proceedings did not violate the stay. However, the Court held that the Landlord did violate the injunction, because the landlord had knowledge of the Debtor’s bankruptcy filing and received notice of the Debtor’s discharge prior to filing its lawsuit. The lease had been rejected by the Chapter 7 Trustee and therefore the unpaid rents were pre-petition debts that had been discharged. The Court entered sanctions including \$1,000 in actual damages, \$5,000 in putative damages, and attorneys’ fees for Debtor’s counsel in compliance with the original lease agreement.

Prior to the Debtor filing her Voluntary Chapter 7 Petition, the Landlord received a judgment against the Debtor for 2 months of unpaid rent and for possession of the property. *In re Baxter* at \*4-\*6. The Landlord continued the eviction proceedings while the bankruptcy case was pending. *Id.* at \*7. The Court held that the eviction proceedings did not violate the automatic stay because the Debtor failed to comply with the provisions of § 362(l)<sup>1</sup> and the Landlord filed a request for relief of automatic stay pursuant to the exception to permit execution of the pre-petition possession order. *Id.* at \*17-\*18.

The Debtor was evicted from the property and also received a discharge in her bankruptcy case in January 2014. *Id.* at \*9. The Landlord then filed a post-discharge lawsuit to attempt to recover unpaid post-petition rent, late charges and attorneys’ fees. *Id.* at \*12-\*13. The Court found that the unpaid rent was all pre-petition debt by virtue of the rejection of the lease agreement during the bankruptcy proceedings. *Id.* at \*20. Accordingly, the debt had been discharged and the action to recover it was not only in violation of the injunction of § 524(a), but also emotionally disturbing to the Debtor. *Id.* The Court determined the Landlord was in violation of the discharge injunction because it willfully filed the action with knowledge of the discharge, regardless of whether it knew the action actually violated the discharge. *Id.* at \*22. Pursuant to § 105, the Court granted actual damages in the amount of \$1,000, putative damages in the amount of \$5,000 because of the willful nature of the Landlord’s violation and granted attorneys’ fees pursuant to the original lease agreement. *Id.* at \*27.

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<sup>1</sup> In her petition, the Debtor certified that the Landlord held a judgment for possession of her residence, but she did not serve the certification on the Landlord as required by § 362(l) to defer application of the exception to the automatic stay.