

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

TAMBRA A. CHEMAN
f/k/a BROOKS

Case No. 01-17818 K

Debtor

After evidentiary hearing, the Court finds that the Debtor was justified in scheduling the lender at the dealer's address only and that the first post-petition bill sent by the lender to the Debtor violated § 362(a).

However, her injury as to that bill was limited to having to call her attorney's office, which told her to forward it to them unopened. There are no actual damages proven as to that violation, and the Court will award Ms. Cheman only nominal damages of \$100, for her emotional distress.

Everything else that transpired here was entirely avoidable by her attorney, and should have been avoided, given the Debtor's prompt communication with him and the instructions to her (as recited above). Counsel should have opened it promptly and telephoned or written the lender at the "new" address, demanding that the lender cease and desist.

Instead, counsel waited until the Debtor received two more monthly statements and even then did not serve the contempt motion at the address shown on what was by then at least three written communications from the lender.

Much time and expense was incurred on all sides here because of the Debtor's counsel's lack of diligence and courtesy. The courts loathe making a "cottage industry" out of

stay-violation litigation. (See *In re Robinson*, 228 B.R. 75 (Bankr. E.D.N.Y. 1998) and numerous cases cited therein.) The duty of a debtor's counsel is to act promptly and diligently to stop the intrusions on their client's "breathing spell," not to let them accumulate until § 362 violations amass.

The Debtor shall have judgment for \$100 against Daimler Chrysler Services North America, LLC.

SO ORDERED.

Dated: Buffalo, New York
October 21, 2002

/s/ Michael J. Kaplan

U.S.B.J.