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U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUIT

ORDERED PUBLISHED

UNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

6	In re:)	BAP No. SC-07-1155-BaMoD
)	
7	ANTOINETTE DUMONT,)	Bk. No. 06-00980-JM7
)	
8	Debtor.)	
)	
9	_____)	
)	
10	ANTOINETTE DUMONT,)	
)	
11	Appellant,)	
)	
12	v.)	O P I N I O N
)	
13	FORD MOTOR CREDIT COMPANY,)	
)	
14	Appellee.)	
)	
15	_____)	

Argued and Submitted on November 28, 2007
at Pasadena, California

Filed - February 6, 2008

Appeal from the United States Bankruptcy Court
for the Southern District of California

Honorable James W. Meyers, Bankruptcy Judge, Presiding

Before: BAUM¹, MONTALI and DUNN, Bankruptcy Judges.

¹ Hon. Redfield T. Baum, Sr., Chief Bankruptcy Judge for
the District of Arizona, sitting by designation.

1 BAUM, Bankruptcy Judge:

2
3 We must determine if the Ninth Circuit's decision,
4 McClellan Fed. Credit Union v. Parker (In re Parker), 139 F.3d
5 668 (9th Cir. 1998), which allowed chapter 7 bankrupt debtors to
6 retain their motor vehicles if current on their payments without
7 an enforceable reaffirmation agreement, was effectively overruled
8 by the 2005 amendments to the Bankruptcy Code. We conclude that
9 these amendments effectively overruled Parker and its progeny,
10 fundamentally changing the way bankruptcy courts and individual
11 debtors in chapter 7 deal with purchase money secured claims on
12 personal property.

13 Appellant Antoinette Dumont ("Dumont" or Debtor) appeals
14 the bankruptcy court's decision denying "Debtor's Application for
15 Order to Show Cause for Contempt of Automatic Stay Under 11
16 U.S.C. § 362; Bankruptcy Discharge Under 11 U.S.C. § 524 and 11
17 U.S.C. § 105; DRA Provisions of 11 U.S.C. § 526; Other State and
18 Federal Relief; Request for Attorney's Fees and Costs"
19 ("Application"). We **AFFIRM**.

20
21 **I. FACTS**

22 The facts are not in dispute. Pre-petition, Dumont
23 entered into a Retail Installment Sale Contract ("Contract") with
24 Ford Motor Credit Company ("Ford") in which Ford provided
25 financing to purchase a 2003 Chevrolet Cavalier ("Car"). The
26 Contract provides that if the Debtor files for bankruptcy
27 protection, a default occurs, and upon such default, Ford may
28 repossess the Car ("ipso facto clause"). On April 30, 2006,

1 Dumont filed a petition for relief under chapter 7 of the
2 Bankruptcy Code.² On Schedule B, Debtor valued the Car at
3 \$5,800.00; on Schedule D the Debtor listed the amount of Ford's
4 claim as \$8,288.00. In her Statement of Intention, Debtor stated
5 "Debtor will retain collateral and continue to make regular
6 payments." On May 4, 2006, Ford filed a secured proof of claim
7 for \$8,126.78 plus interest at the Contract rate. On May 15,
8 2006, Ford provided a proposed reaffirmation agreement; such
9 agreement was never executed. The meeting of creditors was held
10 on June 9, 2006, and on June 12, 2006, the trustee filed a report
11 of no distribution. On August 15, 2006, Debtor was granted a
12 discharge, and on August 21, 2006, the case was closed. The
13 Debtor made the required Contract payments to Ford post-petition.
14 The record is unclear whether the Debtor ever defaulted in making
15 Contract payments pre-petition. On November 15, 2006, Ford
16 repossessed the Car. On February 2, 2007, Debtor filed the
17 Application. Following a hearing, the Bankruptcy Court, on April
18 5, 2007, entered its order denying the Application. Dumont
19 timely appealed.

21 **II. JURISDICTION**

22 The bankruptcy court had jurisdiction pursuant to 28
23 U.S.C. §§ 1334 and 157(b)(2)(B) and (O). The Panel has

24 **2**

25 Unless otherwise indicated, all chapter, section and rule
26 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and
27 to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036, as
28 enacted and promulgated as of October 17, 2005, the effective date
of most of the provisions of the Bankruptcy Abuse Prevention and
Consumer Protection Act of 2005 ("BAPCPA"), Pub. L. 109-8, 119
Stat. 23.

1 jurisdiction under 28 U.S.C. § 158.

2
3 **III. ISSUE**

4 What are the effects of BAPCPA sections 362(h), 521(a)(2)
5 and (6), and 521(d) on Parker and the “ride through” option?
6

7 **IV. STANDARD OF REVIEW**

8 No questions of fact are at issue in this appeal; at issue
9 are the bankruptcy court’s legal conclusions regarding
10 application of certain amended and new sections of BAPCPA. We
11 review the bankruptcy court’s interpretation of the Bankruptcy
12 Code de novo. Bankr. Receivables Mgmt. v. Lopez (In re Lopez),
13 345 F.3d 701, 705 (9th Cir. 2003).
14

15 **V. DISCUSSION**

16
17 **A. The BAPCPA Amendments effectively overruled Parker and**
18 **eliminated the Parker “ride through” option**

19 BAPCPA amended sections 521(a)(2) and 362(h) and added new
20 sections 521(a)(6) and 521(d). These changes effectively
21 eliminated the so called fourth option or “ride through”
22 authorized by Parker. In Parker, the debtor indicated on his
23 statement of intention that his car loan would be reaffirmed. A
24 reaffirmation agreement was filed with the bankruptcy court,
25 which refused to approve the agreement as not in the debtor’s
26 best interests. The court concluded that the debtor could keep
27 the car so long as he made the payments, and that reaffirmation
28 was not required. Parker, 139 F.3d at 669-70. Parker determined

1 that the debtor's options for retaining secured property were not
2 limited to reaffirmation or redemption under former section
3 521(2). Id. at 673. Parker also determined that the bankruptcy
4 court was correct in concluding that Parker could retain the car
5 so long as he made the monthly payments even though the
6 reaffirmation agreement was not approved by the bankruptcy court.
7 Id. at 672.

8 1. Section 521(a)(2)

9 The BAPCPA amendments to section 521(a)(2) do not by
10 themselves affect the Parker decision. Section 521(a)(2) still
11 requires the debtor to both timely file the statement of
12 intention and perform on that stated intention. Section
13 521(a)(2)³ now applies to all debts secured by property of the

14
15 **3** Section 521(a)(2) provides:

16 (a) The debtor shall—

17 (2)if an individual debtor's schedule of assets and
18 liabilities includes debts which are secured by property
19 of the estate—

20 (A) within thirty days after the date of the filing
21 of a petition under chapter 7 of this title or on or
22 before the date of the meeting of creditors,
23 whichever is earlier, or within such additional time
24 as the court, for cause, within such period fixes,
25 the debtor shall file with the clerk a statement of
26 his intention with respect to the retention or
27 surrender of such property and, if applicable,
28 specifying that such property is claimed as exempt,
that the debtor intends to redeem such property, or
that the debtor intends to reaffirm debts secured by
such property.

(B) within 30 days after the first date set for the
meeting of creditors under section 341(a), or within
such additional time as the court, for cause, within
such 30 day period fixes, the debtor shall perform
his intention with respect to such property, as
specified by subparagraph (A) of this paragraph; and

(continued...)

1 estate (previously it applied only to consumer debts). Section
2 521(a)(2)(A) (formerly section 521(2)(A)) was not amended by
3 BAPCPA. Section 521(a)(2)(B) (formerly section 521(2)(B))
4 changed the deadline for the debtor to perform his intention to
5 thirty days after the first date set for the meeting of creditors
6 (previously the debtor had until forty-five days after the filing
7 of the notice of intent). Here, there is no dispute that the
8 debt is of a kind described in section 521(a)(2) and that the
9 Debtor performed her stated intention ("retain collateral and
10 continue to make regular payments") timely.

11 In holding that a debtor is not required to choose between
12 redemption and reaffirmation, Parker determined that the plain
13 meaning of former section 521(2) was unambiguous and that the
14 only mandatory act was the filing of the statement of intention,
15 then "if applicable" (meaning if the debtor plans to choose one
16 of the three options listed in former section 521(2)(A):
17 surrender; claim as exempt and redeem; or reaffirm) the debtor
18 must specify that intent. Parker, 139 F.3d at 673. BAPCPA
19 retains the exact "if applicable" language. Thus as it relates
20 to section 521(a)(2)(A), the Parker analysis and conclusion are
21 unimpaired. However, Parker⁴ also supported its holding by
22 relying on former section 521(2)(C), which provided that the

23
24 ³(...continued)

(C) nothing in subparagraphs (A) and (B) of this paragraph
25 shall alter the debtor's or the trustee's rights with regard
26 to such property under this title, except as provided in
section 362(h);

27

28 ⁴

Parker provided, "The debtor's other options remain
available, as unambiguously stated in § 521(2)(C)" 139
F.3d at 673.

1 debtor's property rights are not altered under former section
2 521(2) (A) and (B). BAPCPA section 521(a) (2) (C) (formerly section
3 521(2) (C)), now provides an exception, by way of new section
4 362(h), to the general rule that the debtor's property rights are
5 not altered under section 521(a) (2) (A) and (B).

6
7 2. Section 362(h)

8 Section 362(h)⁵ terminates the section 362(a) stay as to
9 personal property securing a claim, whether purchase money or not
10 (and also abandons that property), if an individual debtor does
11 not timely file his statement of intention under section
12 521(a) (2) or indicate in the statement that the debtor will

13
14

5 Section 362(h) was added by BAPCPA. It provides:

15 (h) (1) In a case in which the debtor is an individual, the
16 stay provided by subsection (a) is terminated with respect to
17 personal property of the estate or of the debtor securing in
18 whole or in part a claim, or subject to an unexpired lease,
19 and such personal property shall no longer be property of the
estate if the debtor fails within the applicable time set by
section 521(a) (2)–

20 (A) to file timely any statement of intention required
21 under section 521(a) (2) with respect to such personal
22 property or to indicate in such statement that the
23 debtor will either surrender such personal property or
24 retain it and, if retaining such personal property
25 either redeem such personal property pursuant to section
26 722, enter into an agreement of the kind specified in
section 524(c) applicable to the debt secured by such
personal property, or assume such unexpired lease
pursuant to section 365(p) if the trustee does not do so,
as applicable; and

27 (B) to take timely the action specified in such
28 statement, as it may be amended before expiration of the
period for taking action, unless such statement
specifies the debtor's intention to reaffirm such debt
on the original contract terms and the creditor refuses
to agree to the reaffirmation on such terms.

1 either surrender or retain the collateral, and if retaining,
2 either redeem or reaffirm. Section 362(h) also lifts the stay
3 (and abandons the property) if the debtor does not timely perform
4 the action specified in the statement of intention.⁶ The
5 language used in section 362(h) (1) (A) regarding what needs to be
6 in the statement of intention is different from that used in
7 section 521(a) (2) (A). Section 362(h) (1) requires a debtor who
8 retains a vehicle to timely specify his intention to reaffirm or
9 redeem and to timely act thereon. Debtor's failure to comply
10 results in the lifting of the section 362(a) stay.

11 Here when Ford repossessed the Car, the stay had already
12 expired because Dumont's discharge had been entered. Section
13 362(c) (2) (C). However, the stay, as to the Car, was lifted prior
14 to Dumont's discharge based on section 362(h). Section 362(h)
15 requires a debtor who retains a vehicle to indicate his intent
16 either to reaffirm or redeem. The use of the word "either"⁷
17 limits the choices available to the debtor: "either" surrender or
18 retain the vehicle, and if retaining, "either" redeem or
19 reaffirm. Section 362(h) requires a debtor who retains a vehicle
20 to indicate his intent either to reaffirm or redeem, and if the
21 debtor fails to specify his or her intention or timely take the

22
23 **6**

24 Courts interpreting section 362(h) have generally found
25 that a debtor who wishes to retain a vehicle must specify his
26 intention either to reaffirm or redeem on the statement and timely
27 act on that intention or the stay is lifted. See, e.g., In re
28 Donald, 343 B.R. 524 (Bankr. E.D.N.C. 2006); In re Steinhaus, 349
B.R. 694 (Bankr. D. Idaho 2006).

7

Websters's II New College Dictionary (1999) defines
"either" as "one or the other."

1 action specified (both must be done within the time period set by
2 section 521(a)(2)), then the stay lifts. Therefore, when Dumont
3 stated her intent to retain and pay in her statement of intention
4 she did not comply with debtor's obligations under section
5 362(h) and the stay lifted.⁸

6 3. Section 521(a)(6)

7 Section 521(a)(6) also requires an individual chapter 7
8 debtor either to reaffirm or redeem personal property securing a
9 purchase money obligation. The section applies when a creditor
10 has an "allowed claim" for the "purchase price." Courts that have
11 interpreted section 521(a)(6)⁹ have focused on the meaning and
12

13 8

14 Section 521(d) (not impeding the use of ipso facto clauses)
15 becomes applicable if section 362(h) is not complied with.

16 9

17 Section 521(a)(6) was added by BAPCPA. It provides:

18 (a) The debtor shall—

19 . . .

20 (6) in a case under chapter 7 of this title in which the
21 debtor is an individual, not retain possession of
22 personal property as to which a creditor has an allowed
23 claim for the purchase price secured in whole or in
24 part by an interest in such personal property unless
25 the debtor, not later than 45 days after the first
26 meeting of creditors under section 341(a), either—

27 (A) enters into an agreement with the creditor
28 pursuant to section 524(c) with respect to the
claim secured by such property; or

(B) redeems such property from the security
interest pursuant to section 722.

If the debtor fails to so act within the 45-day
period referred to in paragraph (6), the stay
under section 362(a) is terminated with respect to
the personal property of the estate or of the
debtor which is affected, such property shall no
longer be property of the estate, and the creditor

(continued...)

1 effect of "allowed claim" and "purchase price" and have reached
2 different conclusions regarding their meaning.¹⁰

3 Here we need not decide the precise meaning of "has an
4 allowed claim" because Ford filed a proof of claim. That proof
5 of claim is deemed allowed (and thus an "allowed claim") because
6 it was not objected to. 11 U.S.C. § 502(a); Rule 3001(f).
7 Because Ford had an allowed claim it was entitled to the
8 additional creditor rights added by new section 521(a)(6).

9 As a separate issue, the words "allowed claim for the
10 purchase price" would seem to mean the amount paid for the
11 personal property, here the Car. However, as used in section
12 521(a)(6) the words "purchase price" are essentially synonymous
13 to a purchase money security interest (as stated in BAPCPA's
14 legislative history¹¹). Otherwise the section would probably be

15
16 **9**(...continued)

may take whatever action as to such property as is
permitted by applicable nonbankruptcy law

17
18 **10**

Donald, 343 B.R. at 535-536 (filing a claim "is a
19 reasonable prerequisite to receiving relief" under § 521(a)(6);
20 purchase price means "full purchase price" and is not the same as
a claim secured by a "purchase money security interest"); a
21 different conclusion was reached in Steinhaus, 349 B.R. at 705
(concluding the word "allowed" has no clearly intended function
22 when ride through is considered, and concurring with In re Rowe,
342 B.R. 341 (Bankr. D. Kan 2006), that the term "allowed" may be
23 disregarded and that the filing of a claim is not required for
relief under § 521(a)(6), and concluding that creditors with a
24 purchase money security interest qualify even if their claim is for
less than the full purchase price).
25

26 **11**

H.R. Rep. No. 109-31, pt.1 at 70-71 (2005) (chapter 7
27 debtor may not retain possession of personal property securing a
(continued...)
28

1 meaningless and have virtually no application because few
2 automobile lenders finance cars without some form of down
3 payment, and any amount of down payment would reduce the
4 creditor's claim to an amount less than the purchase price.

5 Further, any payments on the debt however small would
6 reduce the amount of the purchase price and thus deny a creditor
7 the protections of section 521(a)(6). It makes no sense for the
8 statute to work only in favor of a creditor of a debtor who has
9 paid nothing. We agree with Steinhaus and Rowe and interpret
10 this section to apply to a purchase money security interest
11 regardless of any subsequent partial payment by the debtor. The
12 debtor has forty-five days from the section 341(a) creditors'
13 meeting either to reaffirm or redeem. The consequences of
14 failure to do so are similar to section 362(h) (the lifting of
15 the section 362(a) stay and abandonment) but with the addition of
16 a new creditor right by expressly providing that the creditor
17 can take whatever action "as permitted by applicable
18 nonbankruptcy law".¹²

19 4. Section 521(d)

20 New section 521(d) allows ipso facto default clauses to be
21 enforced, notwithstanding other Code restrictions that previously
22 prevented or limited the enforcement of such clauses that placed
23
24

25 **11**(...continued)

26 purchase money security interest, unless the debtor timely
27 reaffirms or redeems the property).

28 **12**

In addition, section 521(d) (not impeding the use of ipso
facto clauses) becomes applicable if section 521(a)(6) is not
complied with.

1 a debtor in default for filing bankruptcy. Section 521(d)¹³
2 expressly refers to sections 521(a)(6) and 362(h)(1) and (2) so
3 that a debtor who "fails timely to take the action" under those
4 sections no longer has Code protection against an ipso facto
5 default. Where otherwise enforceable, ipso facto default
6 provisions may now be used by creditors to repossess, contrary to
7 the previous Code limitations.¹⁴

8 However, there may be other restrictions on such creditor
9 actions. First, when section 521(d) applies, permitting an ipso
10 facto default clause to be effective, the creditor who
11 repossesses must still abide by state law. Some state consumer
12 protection statutes prevent a creditor from repossessing when
13 there is no payment default.¹⁵ These state consumer protection
14

15 **13**

16 BAPCPA added section 521(d) which provides:

17 (d)if the debtor fails timely to take the action specified
18 in subsection (a)(6)of this section, or in paragraphs (1) and
19 (2) of section 362(h), with respect to property . . . to
20 which a creditor holds a security interest . . . nothing in
21 this title shall prevent or limit the operation of a
22 provision in the underlying . . . agreement that has the
23 effect of placing the debtor in default under such . . .
24 agreement by reason of the occurrence, pendency, or existence
25 of a proceeding under this title or the insolvency of the
26 debtor. Nothing in this subsection shall be deemed to
27 justify limiting such a provision in any other circumstance.

24 **14**

25 Sections 365(e) and 541(c).

25 **15**

26 Rowe, 342 B.R. at 351 (under Kansas law, if a debtor is
27 current on payments, there is no 'significant impairment' under the
28 Kansas UCCC. Thus, the effect of BAPCPA in many cases will be
illusory); Steinhaus, 349 B.R. at 710 (noting that the Idaho

(continued...)

1 statutes have the potential to make the aforementioned BAPCPA
2 provisions meaningless if repossession is barred by state law
3 when a debtor's payments are current.

4 Second, for a creditor to rely on an ipso facto default
5 clause, section 521(d) must be satisfied (the debtor fails timely
6 to take the action specified in sections 521(a) (6) or 362(h) (1)
7 and (2)). Thus if a debtor is in compliance with sections
8 521(a) (6) or 362(h) (1) and (2), then section 521(d) has no
9 effect, and enforcing an ipso facto default clause is still
10 barred by the Code.

11 5. The case law

12 Perhaps most telling on this issue is the fact that every
13 available bankruptcy court decision¹⁶ has concluded that the
14 fourth option or the "ride through" option was eliminated by
15 these amendments in BAPCPA to the Code. Although these courts
16 have differing interpretations of various parts of these

17
18 **15**(...continued)
19 statute is virtually identical to the Kansas statute).

20 **16**

21 See, e.g., In re Anderson, 348 B.R. 652 (Bankr. D. Del.
22 2006); In re Blakeley, 363 B.R. 225 (Bankr. D. Utah 2007); In re
23 Boring, 346 B.R. 178 (Bankr. N.D. W.Va. 2006); In re Bower, No. 07-
24 60126-fra7, 2007 WL 2163472 (Bankr. D. Or. July 26, 2007); In re
25 Craker, 337 B.R. 549 (Bankr. M.D. N.C. 2006); In re Donald, 343
26 B.R. 524 (Bankr. E.D.N.C. 2006); In re Ertha Rice, No. 06-10975,
27 2007 WL 781893 (Bankr. E.D. Pa. Mar. 12, 2007); In re Husain, 364
28 B.R. 211 (Bankr. E.D. Va. 2007); In re McFall, 356 B.R. 674 (Bankr.
N.D. Ohio 2006); In re Moustafi, 371 B.R. 434 (Bankr. D. Ariz.
2007); In re Norton, 347 B.R. 291 (Bankr. E.D. Tenn. 2006); In re
Openshaw, No. 06C-24120, 2007 WL 2916294 (Bankr. D. Utah Mar. 12,
2007); In re Riggs, No. 06-60346, 2006 WL 2990218 (Bankr. W.D. Mo.
Oct. 12, 2006); In re Rowe, 342 B.R. 341 (Bankr. D. Kan 2006); In
re Ruona, 353 B.R. 688 (Bankr. D. N.M. 2006); In re Steinhaus, 349
B.R. 694 (Bankr. D. Idaho 2006).

1 statutes, the unanimous conclusion of all bankruptcy courts is
2 that "ride through" has been eliminated and a debtor intending to
3 retain a motor vehicle or other personal property collateral must
4 either redeem under section 722 or reaffirm the debt in
5 accordance with section 524. For the reasons we have explained,
6 we concur with those decisions.

7 6. Dumont's failure to perform her debtor requirements
8 under the Code results in Ford's repossession not being in
9 violation of the Code

10 Here, Dumont did not fulfill her duties under sections 521
11 and 362(h) because she failed to indicate in her statement an
12 intent either to reaffirm or redeem, yet still retained the Car.
13 As a result, the stay lifted and the Car was no longer property
14 of the estate. Dumont also failed to fulfill her duties under
15 section 521(a)(6) and, in addition to stay relief and
16 abandonment, Ford was free to take whatever action is allowed
17 under California law. Further, section 521(d) applies such that
18 the Code does not preclude the application of the Contract's ipso
19 facto clause.

20 Despite the fact that Dumont was current with her
21 payments, Ford utilized the Contract's ipso facto clause and
22 repossessed the Car.¹⁷ Ford repossessed after Dumont received
23 her discharge but could have done so earlier (possibly, as early
24 as thirty days after the first meeting of creditors, as stated in

25
26 **17**

27 Although Ford had the right to repossess, it is unclear
28 why Ford exercised that right considering the economics, i.e. a
debtor timely making payments and the secured debt significantly
more than the value of the collateral.

1 section 521(a)(2)(B)). However, Ford's right to repossess
2 remains subject to state law limitations. See 4 Collier on
3 Bankruptcy ¶ 521.10[5], at p. 521-59 (15th ed. rev. 2007). The
4 issue now becomes whether it is within the jurisdiction of the
5 bankruptcy court to decide the validity of the repossession under
6 state law.

7
8 **B. The bankruptcy court lacked jurisdiction to determine whether**
9 **repossession is proper under state law**

10 District court jurisdiction over title 11 cases is granted
11 by 28 U.S.C. § 1334. Bankruptcy court jurisdiction is found in
12 28 U.S.C. § 157(a), which permits the federal district courts to
13 refer their jurisdiction over title 11 cases granted by 28 U.S.C.
14 § 1334(b).¹⁸ In the Ninth Circuit the test to determine whether
15 a civil proceeding is "related to" a bankruptcy case "is whether
16 the outcome of the proceeding could conceivably have any effect
17 on the estate being administered in bankruptcy."¹⁹

18 Here, the repossession took place after the petition was
19 filed (and after discharge), thus any state law claim Dumont may
20
21

22 **18**

23 28 U.S.C. 1334(b) provides: ". . . the district courts
24 shall have original but not exclusive jurisdiction of all civil
25 proceedings arising under title 11, or arising in or related to
cases under title 11."

26 **19**

27 In re Fietz, 852 F.2d 455, 457 (9th Cir. 1988) (adopting
28 from Pacor, Inc. v. Higgins, 743 F.2d 984 (3rd Cir. 1984), the
definition of "related" proceedings under section 1334); In re
American Hardwoods, Inc., 885 F.2d 621 (9th Cir. 1989).

1 have against Ford would not be property of the estate.²⁰ We do
2 not see how any claim Dumont may have against Ford could
3 conceivably affect the estate.²¹ The bankruptcy case has been
4 closed and regardless of the outcome of any suit in state court
5 there appears to be no effect on this bankruptcy estate. Both
6 Dumont's and Ford's rights and remedies under the Contract are
7 defined and brought into existence by their Contract and are now
8 governed by state law. Therefore, on these facts, we conclude
9 that the bankruptcy court did not have jurisdiction to determine
10 whether the repossession is valid under state law.

11 12 **VI. CONCLUSION**

13 For the foregoing reasons, the order of the bankruptcy
14 court is **AFFIRMED**.

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24 **20**

25 Because sections 362(h) and 521(a)(6) apply here, the
26 stay lifted and the property was no longer property of the estate.

27 **21**

28 See Steinhaus, 349 B.R. at 709 (questioning whether
bankruptcy courts have jurisdiction to determine if the creditor
can repossess under non-bankruptcy law).