

Dated: February 12, 2026
The following is ORDERED:



A handwritten signature in black ink, appearing to read "M. Ruthie Hagan".

M. Ruthie Hagan
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re
Darrance LaQuann Cain
Debtor

Case No. 25-25913
Chapter 13

**OPINION AND ORDER GRANTING DEBTOR'S MOTION FOR SANCTIONS FOR
WILLFUL VIOLATION OF THE AUTOMATIC STAY**

This matter is before the Court on the Debtor's Motion for Contempt¹ and Sanctions Against Country View Apartments for Violation of the Automatic Stay Under 11 U.S.C. § 362 [DE 20] seeking entry of an order pursuant to 11 U.S.C. § 362(k) finding Landlord Creditor

¹ Contempt is not the appropriate remedy for a willful violation of the automatic stay, as Bankruptcy Code § 362(k) provides debtors an express right of action to address such violations, and provides a specific statutory remedy. *See* 11 U.S.C. § 362(k) and *In re Witham*, 579 B.R. 787, 796 (Bankr. E.D. Ky. 2017) (citation omitted). For this reason, the Court will address only the Debtor's Motion as it pertains to sanctions and does not hold any party in contempt.

Country View Apartments in willful violation of the automatic stay and awarding Debtor's actual damages and punitive damages, and the Landlord Creditor's Response thereto. [DE 26]

This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O), and this Court is authorized to issue a final order in determination of this matter. Accordingly, the Court has both the statutory and constitutional authority to hear and determine these proceedings subject to the statutory appellate provisions of 28 U.S.C. § 158(a)(1) and Part VIII ("Bankruptcy Appeals") of the Federal Rules of Bankruptcy Procedure. This decision constitutes the Court's findings of fact and conclusions of law under FED. R. CIV. P. 52, made applicable to this contested matter by FED. R. BANKR. P. 7052. Regardless of whether specifically referred to in this decision, the Court has examined the submitted materials, considered statements of counsel, considered the testimony given in this matter, considered all of the evidence, and reviewed the entire record of the case. Based upon that review, and for the following reasons, the Court hereby determines that Debtor's Motion is granted.

**DISCUSSION OF BACKGROUND FACTS AND
PROCEDURAL HISTORY OF THE CASE**

Based on the record before it, the Court finds the pertinent facts as follows. Debtor fell behind in his rent payments and Debtor's Landlord, Country View Apartments ("Landlord"), acting through its attorneys Glankler Brown, PLLC ("Glankler Brown") commenced a forcible entry and detainer action ("FED") in the General Sessions Court on July 21, 2025, in an effort to gain possession of the Debtor's apartment unit. [DE 20] Debtor then filed his first Chapter 13 bankruptcy case on August 13, 2025. [Case #25-24061] As a result of the bankruptcy filing and imposition of the automatic stay, Landlord dropped the FED action on August 14, 2025 and filed a motion for relief from the automatic stay in the Bankruptcy Court on September 12, 2025 based on Debtor's post-petition rent arrearage of \$844, which represented post-petition non-payment for

the month of September. [Case #25-24061 DE 16] The Court granted the motion without opposition on October 8, 2025. [Case #25-24061 DE 21] The bankruptcy case was ultimately dismissed on November 14, 2025 due to the Debtor's failure to appear via Zoom at his meeting of creditors. [Case #25-24061 DE 25]

Just two days later, on November 16, 2025, Debtor filed the instant Chapter 13 case, thus instituting a new automatic stay effective for 30 days against all creditors. *See* 11 U.S.C. § 362 (c)(3)(A). Debtor's Chapter 13 bankruptcy Petition lists his unexpired lease with Landlord on Schedule G, and Landlord and its attorneys, Glankler Brown, are listed on the Creditor Matrix. [DE 1] Debtor's Chapter 13 Plan indicates his intention to assume the lease, and proposes to treat his \$3,000 pre-petition rent arrearage as a special class unsecured claim to be paid \$50 per month over the Plan term of 60 months. [DE 2] The Bankruptcy Court Clerk's Office on November 16, 2025 entered its Notice of the Chapter 13 Bankruptcy Case and order of relief setting forth pertinent dates and deadlines for creditors. [DE 7] On November 18, 2025, the Bankruptcy Noticing Center sent the Notice of the bankruptcy filing to Glankler Brown via email at 10:18 p.m., and to Landlord on November 20, 2025 via first class mail. [DE 13]

Also on November 17, 2025, the Debtor filed a Verified Motion to Extend the Automatic Stay, sending a copy via first-class mail to all creditors listed on the Creditor Matrix. [DE 8] Once again, the Bankruptcy Noticing Center sent a notice of the hearing on Debtor's Motion to Glankler Brown via email on November 18, 2025, and to Landlord via first-class mail on November 20, 2025. [DE 14]

Out of an abundance of caution, on November 19, 2025, Debtor's counsel took the Notice of the bankruptcy case filing to the General Sessions Court to be docketed in the eviction action. Debtor did not deliver a copy of the Notice to Landlord nor Landlord's Counsel at that time.

Landlord, acting through Counsel, nevertheless took a judgment for possession of the Debtor's apartment unit on November 20, 2025. [DE 20] Debtor's Counsel stated at the hearing that Debtor did not receive notice of the November 20 General Sessions hearing date.

The Debtor's Verified Motion for an extension of the automatic stay was granted on December 9, 2025, without opposition, extending the automatic stay as to all creditors for the duration of the Chapter 13 case, or until modified by further order of the Court. [DE 18]. The Bankruptcy Noticing Center served a copy of the Order via email to Glankler Brown on December 9, 2025, and to Landlord via first-class mail on December 11, 2025. [DE 19]

On December 12, 2025, Landlord, acting through Counsel, filed in the General Sessions eviction docket a copy of the Order terminating the automatic stay that was entered in the Debtor's prior case [Case #25-24061 DE 21] [DE 20], so that it appeared to the General Sessions Court that the automatic stay was no longer a bar to the eviction proceeding. Accordingly, a writ of possession was issued on December 12, 2025, and at approximately 5:00 p.m., process servers arrived at Debtor's apartment and began removing Debtor's possessions from the unit. [DE 20] Debtor was able to reach his bankruptcy attorney, who sent Debtor the Notice of the bankruptcy filing in an effort to stop the removal of Debtor's belongings. The process servers then left the premises without changing the locks. *Id.* With the help of his children, Debtor was able to move his belongings back into his apartment, although some of his furniture was damaged and some of his food was ruined. *Id.*

Setting forth the facts outlined above, Debtor filed the Motion seeking actual damages and punitive sanctions against Landlord based on the "willful" violation of the automatic stay provisions set forth in 11 U.S.C. § 362(k)(1), and asserting that landlords (represented by Counsel) have repeatedly failed to address the automatic stay and this Court prior to evicting tenants. *Id.*

In response to these events, Landlord filed a Motion for relief from the automatic stay on December 19, 2025² based on Debtor's post-petition default in this Chapter 13 case for non-payment of rent for the month of December in the amount of \$926. [DE 23] The Motion also alleges pre-petition rent arrearages of \$5,892 for the months of June, July, August, September, October, and November 2025, as well as \$275 for attorney's fees and \$199 in court costs, for a grand total due from Debtor of \$7,292. *Id.* Landlord also filed a claim on December 19, 2025, in the amount of \$5,892, consisting of rent arrearage, late fees, and court costs. [Claim #4]

A Response in Opposition to Debtor's Motion for Contempt and Sanctions [DE 26] was filed on January 5, 2026, denying that there was a "knowing" violation of the automatic stay, and that Counsel nor Landlord, despite the repeated efforts of Debtor's counsel and the Bankruptcy Noticing Center, had no knowledge of the new bankruptcy case filing. Landlord contends that any violation of the automatic stay was a technical and unintentional violation, and therefore not subject to sanction, especially when the creditor takes steps to undo the offending acts. *Id.* Landlord goes on to explain that the General Sessions Court does not have electronic noticing; hence, there is no way for Counsel for Landlord to know what has been filed on the docket and the Notice of the new bankruptcy case filed by Debtor's Counsel on November 19, 2025, did not make it into the case file ahead of the November 20 eviction hearing. *Id.* "Thus, unless Debtor served these filings on Creditor or . . . Counsel, there would be no notice that anything was filed in General Sessions." *Id.* at p. 3. Counsel also stressed that it is the long-established practice of Glankler Brown, upon learning of a delinquent tenant's bankruptcy filing, to have any pending FED action dropped from the General Sessions Court's docket and to seek termination of the automatic stay in the bankruptcy court. *Id.*

² The hearing on Landlord's Motion for relief from the automatic stay has been continued to March 4, 2026.

The Court held a hearing on the Debtor’s Motion and Landlord’s Opposition to the Motion on January 7, 2026, and heard the arguments of Counsel. Debtor’s Counsel pointed out that, since the automatic stay was triggered for the first 30 days of the case pursuant to § 362(c)(3)(a) and the Court then entered an Order extending the stay before the 30 days expired, the automatic stay was in place continuously from the moment the case was filed. Further, referring to the Bankruptcy Court’s docket, Debtor’s counsel also noted that the usual notices and copies of pertinent bankruptcy docket entries were served on Landlord (via first-class US Mail) and its Counsel (via email) for almost a month before the writ was issued by the General Sessions Court.

Landlord’s Counsel focused the Court on the General Sessions docket and what was — and was not — provided there, asserting that there should be some responsibility and obligation on the Debtor to notify landlords and their attorneys of a new bankruptcy filing, and that actual notice of the bankruptcy is what is important when considering whether a willful stay violation has occurred.

With these facts and arguments before it, the Court now turns to its analysis of the issues presented.

LAW AND ANALYSIS

Willful Violation of the Automatic Stay

Having considered two other similar cases requiring parallel legal analyses,³ the Court here reiterates its summary of the law as it pertains to the violation of the automatic stay.

³ See Chapter 7 Case No. 25-25681 and Chapter 13 Case No. 25-23473 also under advisement with this Court.

From the moment a bankruptcy petition is filed under Chapter 7, 11, 12, or 13, the debtor and the debtor’s estate⁴ are afforded the protection of an automatic stay against essentially all creditor collection activity, without any action by the bankruptcy judge. This broad protection is established in Bankruptcy Code § 362(a), which provides that the filing of a bankruptcy petition

operates as a stay, applicable to all entities, of . . . (1) the commencement or continuation . . . of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title; (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title; (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.

11 U.S.C. § 362(a). The legislative history outlines the reasoning for this central element of bankruptcy law:

The automatic stay is one of the fundamental debtor protections provided by the bankruptcy laws. It gives the debtor a breathing spell from his creditors. It stops all collection efforts, all harassment, and all foreclosure actions. It permits the debtor to attempt a repayment or reorganization plan, or simply to be relieved of the financial pressures that drove him into bankruptcy.

H.R. Rep. No. 95-595, at 340 (1977), reprinted in 1978 U.S.C.C.A.N. 5963, 6296-97.

The automatic stay “neither extinguishes a debt nor creates rights in the debtor. . . . The stay merely suspends proceedings.” JEFFRY H. GALLET & MAUREEN M. FINN, SPOUSE AND CHILD SUPPORT IN NEW YORK § 5:11 (2022) (citations omitted). Hence, the filing of a bankruptcy petition prohibits the commencement or continuation of a judicial action against the debtor, any act to collect on a claim against the debtor, the enforcement of any judgment against the debtor, the

⁴ It should be noted that a possessory interest — such as in a lease — even without a legal interest, is property of the bankruptcy estate and subject to the automatic stay. *See* 11 U.S.C. §§ 362(a) and 541.

exercise of setoff rights, and any act to obtain possession of or create a lien on the debtor's property. HON. WILLIAM HOUSTON BROWN, BANKRUPTCY AND DOMESTIC RELATIONS MANUAL 96 (Gavin Phillips et al. eds., 2007). It also provides protection for individual creditors "from the effects of a race to the courthouse, thereby promoting the equal treatment of creditors." *In re Witham*, 579 B.R. 787, 792 (Bankr. E.D. Ky. 2017). In most bankruptcy cases⁵, the automatic stay remains in effect until the bankruptcy case is either dismissed or otherwise concluded, or unless an interested party files a motion for termination of the automatic stay pursuant to 11 U.S.C. § 362(d).

Bankruptcy debtors have a private right of action against creditors for any willful violation of the automatic stay that causes injury to the debtor. In such cases, the debtor "shall recover actual damages, including costs and attorneys' fees, and, in appropriate circumstances, may recover punitive damages." 11 U.S.C. § 362(k)(1). Even if a violation of the automatic stay is not deemed to be "willful," *any* action taken in violation of the stay is void ab initio. *See In re Kennedy*, No. 20-25503 (Bankr. W.D. Tenn. July 02, 2021) (finding perfection of a lien to be in violation of the stay and therefore void). A creditor may violate the automatic stay even if the creditor has no knowledge of the bankruptcy filing. Once a creditor learns of the bankruptcy filing, the creditor's actions, or omissions, may rise to the level of "willful," thus subjecting the offending creditor to strict liability for damages.

"A violation is willful if the creditor deliberately carried out the prohibited act with knowledge of the debtor's bankruptcy case."⁶ *In re Webb*, No. 2012 WL 2329051, at *15 (B.A.P.

⁵ In some cases where the debtor is a repeat filer, the automatic stay may be in place for only 30 days, or may not be triggered at all by the bankruptcy filing. *See* 11 U.S.C. § 362(c)(3). In such cases, the debtor must petition the bankruptcy court for an extension or imposition of the automatic stay. *Id.*

⁶ Bankruptcy Code § 342(g)(2) provides that "[a] monetary penalty may not be imposed on a creditor for a willful violation of a stay in effect under section 362(a) (including a monetary penalty imposed under

6th Cir. April 9, 2012) (quoting *In re Printup*, 264 B.R. 169, 173 (Bankr. E.D. Tenn. 2001)). The *Webb* Court went on to state:

[It is] incumbent upon creditors to take the necessary steps to halt or reverse any pending State Court actions or other collection efforts commenced prior to the filing of a bankruptcy petition, including garnishment of wages, repossession of automobile, foreclosure of a mortgage or a judgment lien and, thereby, maintain, or restore, the status quo as it existed at the time of the filing of the bankruptcy petition.

Id. at *14 (quoting *In re Banks*, 253 B.R. 25, 30 (Bankr. E.D. Mich. 2000)). The debtor need not show nor even allege a creditor's specific intent to violate the automatic stay.

A specific intent to violate the stay is not required, or even an awareness by the creditor that her conduct violates the stay. It is sufficient that the creditor knows of the bankruptcy and engages in deliberate conduct that, it so happens, is a violation of the stay. Moreover, where there is actual notice of the bankruptcy it must be presumed that the violation was deliberate or intentional. Satisfying these requirements itself creates strict liability. There is nothing more to prove except damages.

Id. at *15 (quoting *In re Daniels*, 206 B.R. 444, 445 (Bankr. E.D. Mich. 1997)). A creditor's good-faith belief that its intentional actions did not violate the automatic stay is not a defense. *Id.*

In these cases, “[t]he creditor sets in motion the process. The creditor is very much in the driver’s seat and very much controls what is done thereafter if it chooses. If the continuation [of a state court action] is to be stayed, it (the creditor) cannot choose to do nothing and pass the buck to the debtor.” *Johnston v. Parker (In re Johnston)*, 321 B.R. 262, 283-84 (D. Ariz. 2005) (citation omitted). Furthermore, although “state court judges generally refrain from proceeding once they are made aware of a bankruptcy filing, the burden is on the creditor not to seek relief against a debtor in violation of the stay.” *Id.* at 283 (citation omitted).

section 362(k)) . . . unless the conduct that is the basis of such violation . . . occurs after such creditor receives notice effective under this section of the order for relief.”

Actual Damages

The Court finds the facts of this case particularly egregious. There is no question that Landlord and Glankler Brown had ample notice of this bankruptcy case prior to taking action for possession of Debtor's residence in the General Sessions Court. The bankruptcy court docket discloses that notice of this case and its progress was sent to Landlord and its counsel time after time. Yet Counsel maintains that Debtor's counsel should bear additional responsibility — such as a visit to Counsel's office to drop off documents — for informing it of the bankruptcy filing. Counsel has failed to convince the Court that Glankler Brown should be treated differently than other similarly-situated landlord attorneys and provided with a hand-delivered “special delivery” copy of the bankruptcy petition. It is concerning to the Court that Counsel somehow missed numerous email messages from the Bankruptcy Noticing Center providing notices of the filings in this case. The Court finds that Landlord and Glankler Brown had actual notice of the bankruptcy filing prior to continuing with the eviction action in the General Sessions Court, and their actions in prosecuting the eviction constitute a willful violation of the automatic stay. Accordingly and as mandated by Bankruptcy Code § 362(k), the Debtor is entitled to an award of actual damages.

Punitive Damages

Pursuant to § 362(k), the Court, in its discretion, may also award punitive damages if it finds a willful violation of the stay. “A party seeking punitive damages under § 362(k) must demonstrate that the creditor's conduct was ‘egregious, vindictive, or intentionally malicious.’” *In re Witham*, 579 B.R. 787,795 (Bankr. E.D. Ky. 2017) (citations omitted). Further, “[w]hile proof of an overt wrongful intent is not required, it must be shown that the creditor acted in bad faith or otherwise undertook its actions in reckless disregard of the law.” *Id.* (citations omitted).

In this regard, the Court is particularly disturbed by the fact that in this case and another under advisement, Glankler Brown filed with the General Sessions Court a copy of an order terminating the automatic stay entered in a prior case of the Debtor — a “stale order,” so to speak — which in no way affects the automatic stay in the Debtor’s current case. The Court finds these state court filings very disingenuous and potentially deceiving to the General Sessions Court since it incorrectly represents that the Landlord approached the Bankruptcy Court for an order for relief.

Further and for the benefit of Landlord and Counsel, the Court emphasizes the following:

Creditors and their counsel are not allowed to sit by and watch the litigation they have commenced proceed by shifting responsibility to local authorities charged with collecting judgments obtained through their efforts. The provisions of the automatic stay place the responsibility to discontinue any pending collection proceedings squarely on the shoulders of the creditor who initiated the action.

Hardesty v. Chase (In re Hardesty), 442 B.R. 110, 115 (Bankr. N.D. Ohio 2010). Landlord’s argument that it had no ability to stop the service of process is without merit. In this case, Landlord used a private process server of its choice. Landlord had a duty to contact the process server to stop all continued actions against the Debtor. As this Court previously noted in a similar case, despite Counsel’s assertions that the change in Clerk of Court of the General Sessions Court in Shelby County, Tennessee, has caused multiple delays in eviction proceedings, it does not alleviate the obligation to stop all actions against bankruptcy debtors. “When [state] courts proceed in error, actions violating the stay are invalid; resources spent there are likely wasted; and sanctions may be assessed.” *Wohleber v. Skurko (In re Wohleber)*, 596 B.R. 554, 576 (B.A.P. 6th Cir. 2019). “[L]itigants proceeding in this way ‘proceed[] at [their] own risk.’” *Id.* (quoting *NLRB v. Edward Cooper Painting, Inc.*, 804 F.2d 934, 940 (6th Cir. 1986)); *see also Moore v. Nunnari (In re Moore)*, No. 08-11498, Adv. Proc. No. 08-1139, 2009 WL 1616019, at *5 (Bankr. N.D. Ohio March 20, 2009) (“[W]hen a state court incorrectly decides that the automatic stay does not apply

to the proceeding before it . . . any action taken by the state court in violation of the automatic stay is void *ab initio*.”) (citations omitted).

The Court also notes that of the three debtors currently before it alleging willful violations of the automatic stay, Glankler Brown represents the landlords in each case. To date, the Court has not had before it similar allegations or motions seeking sanctions against any other landlord attorneys. “Attorneys also may be found, along with their clients, to have an affirmative duty to act and to be liable for violating the automatic stay for failing to act.” *Connor v. Prop. Fund 629, LLC (In re Connor)*, 641 B.R. 875, 884 (Bankr. M.D. Tenn. 2022). Moreover, within the Sixth Circuit, attorneys found to “have an affirmative duty to act were involved with or responsible for pre-petition actions that set a metaphorical collection ball rolling and were fully aware that without action to stop it, the ball would continue rolling post-petition.” *Id.* (citing *Wohleber*, 596 B.R. at 556).

Based on all of the facts presented above, with special emphasis on the fact that Debtor, who took appropriate initiative to schedule both Landlord and Landlord’s Counsel in his bankruptcy case, including listing both parties on the Creditor Matrix, was nevertheless partially evicted and put out from his home almost a month after Landlord and Creditor began to receive notices of the bankruptcy docket filings, the Court finds that the post-petition actions of Landlord and Glankler Brown rise to the level of egregiousness, and that they acted in reckless disregard of the protections afforded Debtor by the Bankruptcy Code. The Court encourages Counsel in the future to put safeguards in place in his office to ensure that notices received from the Bankruptcy Noticing Center are documented. For these reasons, the Court finds in its discretion afforded under Code § 362(k), that in addition to actual damages, Debtor is entitled to an award of punitive damages against Landlord and Glankler Brown.

CONCLUSION

Based on the facts presented, the Court finds that the actions of Landlord, Country View Apartments, and its Counsel, Glankler Brown, PLLC, in executing an eviction action in the General Sessions Court and partially putting Debtor out of his home after being notified of Debtor's Chapter 13 bankruptcy filing constitute a willful violation of the stay. A separate hearing will be held on **Wednesday, February 25, 2026 at 11:30 a.m.** in the United States Bankruptcy Court, Courtroom No. 680, 200 Jefferson Avenue, Memphis, Tennessee to determine actual damages and punitive damages. Debtor shall be prepared at the hearing to offer evidence supporting his claim for actual expenses incurred, including but not limited to an affidavit from his attorney itemizing attorney's fees and expenses, and to offer pertinent testimony.

The Bankruptcy Court Clerk shall serve a copy of this Opinion and Order on the following interested parties:

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