



2.

**JURISDICTION AND THE PARTIES**

This is an adversary proceeding brought under 11 U.S.C. § 362(k) and ORS 652 *et seq.*

3.

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1334, 157, and 1367 because the automatic stay claim arises under Title 11 and because plaintiff's state law claim is so related to the automatic stay claim that it forms part of the same case or controversy.

4.

This adversary proceeding is one arising in and related to the above-captioned bankruptcy case, filed under Chapter 7 of Title 11 now open in this Court, case number 12-65404-tmr7. The action for violating the automatic stay is a core proceeding under 28 U.S.C. § 157. Plaintiff consents to a jury trial on her state law claim in bankruptcy court. Plaintiff consents to final adjudication of her entire case in bankruptcy court.

5.

This is an action for declaratory relief, actual damages, statutory damages, punitive damages, and attorney's fees and costs brought by plaintiff against Starbucks Corporation ("Starbucks") and ADP, Inc. ("ADP") resulting from willful violation of the automatic stay and state laws governing payment of wages.

6.

Plaintiff resides in Eugene, Oregon and is employed by Starbucks.

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12.

**FACTUAL ALLEGATIONS**

Prior to filing for Chapter 7 bankruptcy protection, the wages plaintiff earned from Starbucks were legally subject to garnishment.

13.

Plaintiff filed for Chapter 7 bankruptcy protection in this Honorable Court on December 31, 2012.

14.

Upon the commencement of her bankruptcy case, plaintiff's wages were no longer legally subject to garnishment.

15.

After the commencement of her bankruptcy case, defendants continue to illegally withhold garnished funds from plaintiff's wages.

16.

Plaintiff informs defendants verbally that continuing to withhold garnished funds from her wages violates the law.

17.

Plaintiff's creditor mailed defendants a release of garnishment dated January 3, 2013.

18.

Plaintiff's attorneys mailed defendants a court-generated notice of the automatic stay and informed defendants that continuing to withhold garnished funds from plaintiff's wages violates the law.

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19.

The court-generated notice warned defendants that the automatic stay prohibits various actions against plaintiff and her wages.

20.

The court-generated notice warned defendants that taking action in violation of the Bankruptcy Code may result in penalties.

21.

The court-generated notice informed defendants that plaintiff was represented by an attorney and provided contact information for plaintiff's attorney.

22.

After receiving actual written notice of plaintiff's bankruptcy case and the automatic stay, defendants willfully withhold garnished funds from plaintiff's wages in collection of a claim arising before the commencement of her bankruptcy case.

23.

Defendants' failure to take affirmative steps to ensure compliance with the automatic stay results in willful conduct.

24.

As a direct and proximate result of defendants' conduct, plaintiff suffers actual damages, including loss of use of wages, inability to pay rent, and interference with her schooling.

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27.

**CAUSES OF ACTION**

**FIRST CLAIM FOR RELIEF**

(WILLFUL VIOLATION OF THE AUTOMATIC STAY)

(11 U.S.C. § 362(k))

Plaintiff incorporates the above by reference.

28.

Defendants failed to take affirmative steps to stop collections from plaintiff despite receiving actual notice of the automatic stay, constituting a willful violation of 11 U.S.C. § 362.

29.

Defendants have not remedied or acknowledged their contempt, constituting a willful ongoing violation of 11 U.S.C. § 362.

30.

Plaintiff is entitled to and so seeks punitive damages against defendants under 11 U.S.C. § 362(k) so it may become profitable for them to implement procedures to avoid this type of violation in the future.

31.

Plaintiff is injured as a result of defendants' willful violations, and so is entitled to actual damages and punitive damages pursuant to 11 U.S.C. § 362(k).

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**WHEREFORE**, plaintiff request judgment against defendants as follows:

- A. Declaratory judgment holding defendants in violation of the Bankruptcy Code;
- B. An award of actual damages and punitive damages under § 362(k);
- C. An award of statutory damages or actual damages, and attorney’s fees and costs against Starbucks under Oregon law;
- D. For such other and further relief as this Court may deem just and proper.

Dated: February 18, 2013

/s/ Michael Fuller  
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