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U.S. BANKRUPTCY COURT
EASTERN AND WESTERN
DISTRICTS OF ARKANSAS

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IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT

IN RE: MARY P. SANDERS
DEBTOR

CASE NO. 01-14246
CHAPTER 13

MARY P. SANDERS

PLAINTIFF

VS.

AP NO. 01-_____ AP014515

SUNDBERG'S GARAGE

DEFENDANT

PETITION FOR EMERGENCY EX PARTE INJUNCTION

AND PERMANENT INJUNCTION

Comes now the Plaintiff, Mary P. Sanders, by and through her attorneys, Cruz & Associates, P.L.C., by Kathy A. Cruz, and for her Petition for Emergency Ex Parte and Permanent Injunction does state as follows:

1. The Plaintiff filed a voluntary chapter 13 bankruptcy petition on April 23, 2001. case number 01-14246 pursuant to Section 101 of Public Law 95-598, Title I, November 6, 1978, 92 Stat 2549 as codified and enacted as 11 U.S.C. 101 et. seq. and known as the Bankruptcy Act of 1978 and pursuant to all later amendments.

2. This Court has jurisdiction of case number 00-11773 pursuant to 28 U.S.C. 1334 and 28 U.S.C. 157(a) and jurisdiction of the following matter as it is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A).

3. Debtor listed Credit Acceptance Corporation as a creditor holding a 1988 Chevrolet Corsica as collateral.

4. Post-petition Debtor had the 1988 Chevrolet Corsica repaired by Sundberg's garage in Hope, Arkansas.

5. On August 24, 2001, Sundberg's Garage refused to release the 1988 Chevrolet

without payment of $1,496.98. (Exhibit A)

6. On September 17, 2001 Plaintiff's counsel spoke with Tony Yokum, counsel for Sundberg's Garage and sent a fax proposing to put the full post-petition debt in the plan. (Exhibit B)

7. On September 24, 2001 Plaintiff's counsel wrote Debtor's counsel asking for a decision on the proposed plan. (Exhibit C)

8. On November 5, 2001 Plaintiff faxed counsel a notice from Sundberg's Garage signed by Sandra Sundberg giving notice the 1988 Chevrolet Corsica would be sold in fifteen (15) days from the date of the November 2, 2001 notice on November 17, 2001. (Exhibit D)

9. Act 695 of 1999 codified at ACA 18-45-202 gives the purchase money lien holder priority over a mechanics lien.

10. The sale of Credit Acceptance Corporation's collateral is a violation of 11 U.S.C. 362(a) as it is an attempt to exercise control over property of the estate.

11. The sale of the 1988 Chevrolet Corsica would not benefit Sundberg's Garage as the Credit Acceptance Corporation's lien is superior to Sundberg Garage's lien and the value of the collateral is not sufficient to pay both liens.

WHEREFORE, Plaintiff prays that Sundberg's Garage, Sandra Sundberg or any other authorized agent of Sundberg's Garage be enjoined from disposing of the 1988 Chevrolet Corsica and that a preliminary ex parte injunction be issued until a hearing can be held on a permanent injunction.

Respectfully submitted,

MARY P. SANDERS, Debtor