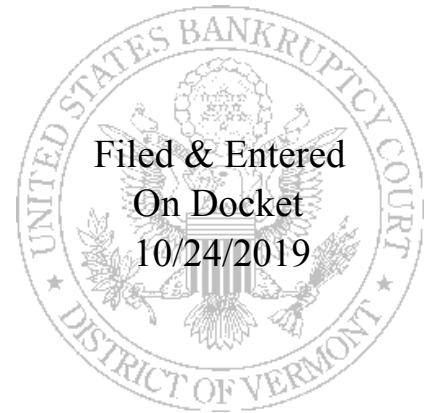


**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**



In re:

**Jacob T. Ennis and
Caitlin V. Ennis,
Debtors.**

**Chapter 7 Case
19-10325**

ORDER
WITHDRAWING ORDER TO SHOW CAUSE, WITHOUT IMPOSITION OF SANCTIONS

On September 24, 2019, ACAR Leasing, Ltd. d/b/a GM Financial Leasing (“ACAR Leasing”) filed a reaffirmation agreement in this case, purporting to reaffirm the Debtors’ lease of an automobile (doc. # 9). This is the fifth time ACAR Leasing has filed such an agreement in this Court over the last four years and, in each prior instance, the Court issued an order denying the reaffirmation. See In re Thompson, No. 19-10037 (Apr. 9, 2019, doc. # 8), In re Columbia, No. 18-10463 (Jan. 22, 2019, doc. # 14), In re Dean, No. 18-10350 (Oct. 19, 2018, doc. # 7), In re Ballou, No. 16-11327 (Sept. 23, 2016, doc. # 9), In re Prim, No. 15-11060 (Mar. 9, 2016, doc. # 8). In Thompson, the Court put ACAR Leasing on notice that if it filed another reaffirmation agreement in connection with an auto lease, the Court would consider that to be an act of contempt, subject to sanctions under Rule 9011(c).

Thus, when ACAR Leasing filed the instant reaffirmation agreement, to protect its rights under an auto lease, on September 26, 2019, the Court entered an order directing that ACAR Leasing appear at a hearing on October 29, 2019, to show cause why sanctions should not be imposed pursuant to Rule 9011(c) (doc. # 10, the “OSC”).

On October 17, 2019 ACAR Leasing filed a response to the OSC (doc. # 12, the “Response”), requesting that this Court withdraw the Order to Show Cause, without imposing sanctions. In support of that request, ACAR Leasing asserted (1) it has reviewed its lease assumption process with an attorney who regularly practices in the District of Vermont (Martin Mooney, Esq.) and now understands the requirements; (2) its failure to abide by the Court’s procedures, and comply with this Court’s directions, regarding the proper mechanism for assuming auto leases, is not due to indifference to Court orders;

(3) ACAR Leasing's improper procedure instead reflects the small number of leases it has with Vermont debtors and its reliance on decisions from other courts (presumably where it has more leases with debtors) that require reaffirmation as part of lease assumption; (4) ACAR Leasing's failure to properly update its procedures is due to that low volume, and staff and system changes; and (5) it will correct its procedures to ensure compliance with this Court's procedures immediately. In that regard, ACAR Leasing reported it has provided a stipulation to assume the instant motor vehicle lease to Debtor's counsel, which it will file with the Court upon execution, to implement the correct procedure in this case.* Additionally, ACAR Leasing committed to pursuing all future lease assumptions in this District through a stipulation, pursuant to 11 U.S.C. § 365(p) of the Bankruptcy Code, rather than through a reaffirmation agreement. Finally, it apologized for its filing of documents that created unnecessary work for the Court.

Based on ACAR Leasing's conduct in this Court to date, the record in this case, and ACAR Leasing's Response, THE COURT FINDS ACAR Leasing has given a credible explanation for its failure to comply with this Court's procedures and prior Orders, has made a good faith commitment to use the appropriate procedure for the lease assumption in this case, and has persuasively asserted it has the means and intention to ensure it will do so in addressing future lease assumptions in Vermont bankruptcy cases.

Therefore, THE COURT FURTHER FINDS no sanctions are warranted at this time, but if ACAR Leasing fails to abide by this Court's Orders in the future, the Court will consider ACAR Leasing's conduct in all cases to date, as well its conduct – and the Court's granting of its request not to impose sanctions in this case – when determining whether to impose sanctions at that time.

Based on these findings, IT IS HEREBY ORDERED the Order to Show Cause in this case is withdrawn, without the imposition of sanctions, and the hearing set for October 29, 2019 is canceled.

SO ORDERED.

October 24, 2019
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge

* Acar Leasing filed the stipulation at doc. # 13.