

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT

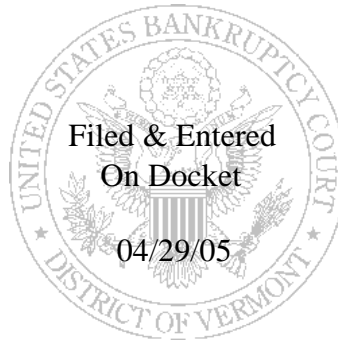
In re:

LARNEY MALCOLM MCGRATH and  
ANN MARIE-RILEY MCGRATH,  
Debtors.

VERMONT FEDERAL CREDIT UNION,  
Plaintiff,

v.

LARNEY MALCOLM MCGRATH and  
ANN MARIE-RILEY MCGRATH,  
Defendants.



Chapter 7 Case  
# 04-10606

Adversary Proceeding  
# 04-1053

Appearances: *Michael D. Johnson, Esq.*  
*Johnson & Finnigan, LLP*  
*South Burlington, Vt.*  
*For the Plaintiff*

*Anthony R. Duprey, Esq.*  
*Neuse, Smith & Venman, PC*  
*Middlebury, Vt.*  
*For the Debtors-Defendants*

**ORDER**  
**RULING ON CROSS-MOTIONS FOR SUMMARY JUDGMENT,**  
**SETTING EVIDENTIARY HEARING AND AWARDED DAMAGES**

For the reasons set forth in the Memorandum of Decision of even date, IT IS HEREBY ORDERED that:

1. The Plaintiff's Motion for Summary Judgment is denied.
2. The Defendant's Motion for Summary Judgment is granted.
3. The Court will conduct a one hour evidentiary hearing on **June 15, 2005 at 9:30 a.m.** at the U.S. District Court, Federal Building, 11 Elmwood Avenue, Burlington, VT on the following issues:
  - a. whether VFCU acted with bad faith and or/malice when it applied for a duplicate title with the Vermont Department of Motor Vehicles so as to justify an award of punitive damages to the Defendants under 11 U.S.C. § 362(h); and
  - b. whether there is a "cloud" on the title to the Defendants' 1997 GMC Truck (VIN # 2GTEK19R2V1536564) since the Court has declared the subject title to be void.

4. The Parties shall file a joint Pre-trial Statement **by 4:00 p.m. on June 8, 2005** (including a witness and exhibit list).
5. VFCU shall pay to the Defendants \$1,262.50, within twenty (20) days of the entry of this Order, for the reasonable attorney's fees incurred as a result of VFCU's violation of the stay.

**SO ORDERED.**

April 29, 2005  
Rutland, Vermont



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Colleen A. Brown  
United States Bankruptcy Judge

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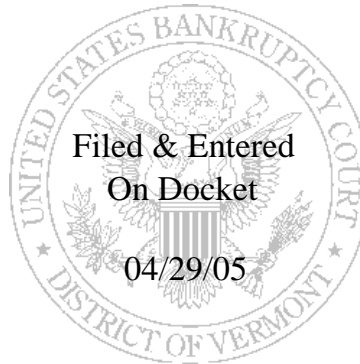
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Middlebury, Vt.  
For the Debtors-Defendants

**ORDER**  
**VOIDING POST PETITION LIEN AND**  
**DIRECTING CORRECTION OF DMV RECORDS**


For the reasons set forth in the Memorandum of Decision of even date, the Court FINDS that although Vermont Federal Credit Union filed an Affidavit of Loss of Certificate of Title and Application for Duplicate with the Department of Motor Vehicles for the State of Vermont, the evidence is clear that the original title was not "lost." The Court FURTHER FINDS that Vermont Federal Credit Union's attempt to perfect its lien after the Defendants filed for bankruptcy protection constitutes a wilful violation of the automatic stay and the duplicate title is void as a matter of law. Accordingly,

IT IS HEREBY ORDERED that:

1. The Clerk of Court shall serve copies of this Order and the Memorandum of Decision of even date upon the Commissioner of the Vermont Department of Motor Vehicles; and
2. The Vermont Department of Motor Vehicles shall correct its records within twenty (20) days of entry of this Order to reflect that Vermont Federal Credit Union does not hold a lien against the Defendants' 1997 GMC Truck (VIN # 2GTEK19R2V1536564).

**SO ORDERED.**

April 29, 2005  
Rutland, Vermont

  
Colleen A. Brown  
United States Bankruptcy Judge