

SO ORDERED.

SIGNED this 27th day of May, 2026.



Lena Mansori James
LENA MANSORI JAMES
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION

IN RE:)	
)	
Brandon Keith Swaim,)	Case No. 25-50593
)	
Debtor.)	Chapter 7
_____)	

**ORDER DENYING DEBTOR’S MOTION FOR SANCTIONS
FOR VIOLATION OF THE AUTOMATIC STAY**

THIS MATTER came before the Court on the Amended Motion for Sanctions (Dkt. No. 34, the “Motion”) filed by Brandon Keith Swaim (the “Debtor”) against his former landlord, Weidl Properties LLC (“Weidl”), for violation of the automatic stay imposed by 11 U.S.C. § 362(a). Weidl, a North Carolina limited liability company, was leasing a residence to the Debtor when he filed his bankruptcy case. The Debtor alleges that Weidl willfully violated the automatic stay by pursuing a postpetition ejectment action in state court despite knowledge of the bankruptcy. The Debtor seeks actual damages under 11 U.S.C. § 362(k), including compensation for increased anxiety and blood pressure, attorney fees incurred in pursuing the matter, and punitive damages. Weidl filed a response challenging the Debtor’s purported damages, arguing there was no willful violation of the automatic stay because it was never notified of the bankruptcy filing and maintaining that it only

pursued eviction at the request of the Debtor to assist his work with a non-profit entity. (Dkt. No. 39).

The Court held an evidentiary hearing on the matter on May 6, 2026, at which Robert Lefkowitz appeared on behalf of the Debtor and Brian Elam appeared on behalf of Weidl. The Debtor was also present and testified in support of the Motion, while Weidl offered the testimony of its property manager, Nickie Parker. The witnesses offered competing testimony as to the impetus of Weidl's eviction action and the timing and communication around the Debtor's bankruptcy filing. The Debtor offered two exhibits, a list of outgoing/incoming call records and screenshots of text messages he exchanged with Ms. Parker in September 2026, which the Court admitted into evidence without objection.¹ After hearing the testimony and arguments of counsel, the Court took the matter under advisement.

JURISDICTION AND AUTHORITY

This Court has jurisdiction over the subject matter of this proceeding pursuant to 28 U.S.C. § 1334. Under 28 U.S.C. § 157(a) and Local Civil Rule 83.11, the United States District Court for the Middle District of North Carolina has referred this case and proceeding to this Court. This is a statutorily core proceeding under 28 U.S.C. § 157(b)(1) and (2) and, because a motion to hold a party liable for violating the automatic stay “stems from the bankruptcy itself,” *Stern v. Marshall*, 564 U.S. 462, 499 (2011), this Court has constitutional authority to enter a final judgment. *See WD Equipment, LLC v. Cowen (In re Cowen)*, 849 F.3d 943, 948 (10th Cir. 2017); *Budget Serv. Co. v. Better Homes*, 804 F.2d 289, 292 (4th Cir. 1986).

FACTS

The alleged violations of the automatic stay described in the Motion are concentrated on Weidl's filing of an eviction action on September 25, 2025 and allegedly prosecuting that proceeding in state court on October 6, 2025; but the record in this case, including witness testimony and documentary evidence, reveals

¹ In reaching a decision on the Motion, the Court will only consider those exhibits that were properly admitted at the evidentiary hearing. Although the Debtor referenced several exhibits during his testimony, his counsel only moved to admit Exhibit C (text messages) and Exhibit D (call records).

a more complicated and nuanced story about their tenant-landlord relationship and the Debtor's role in encouraging Weidl to take the now-challenged actions.

Beginning around May 2023, the Debtor leased a trailer from Weidl, located at 3160 Dunn St., Winston-Salem, North Carolina. (Dkt. No. 1). The Debtor struggled with paying his rent timely but frequently worked out payment plan arrangements with Nickie Parker, the property manager employed by Weidl. The Debtor found himself behind on rent again in the summer of 2025, and his already precarious situation worsened when he lost his job that August. The Debtor proposed another payment plan to Parker, indicating he would deliver the July and August rent payments by September 1, 2025. When Parker texted him on September 16 regarding his failure to make that payment, the Debtor explained that he had lost his job in August but "there's a veteran association that will most likely take care of all of it for me but I have to have an eviction notice." He added that he had "just kind of been waiting for the notice," to which Parker replied that she would "get that filed this week." (Ex. C). Parker understood an eviction notice "to be exactly what it is—through the court, an eviction." Parker further credibly testified that she delayed in filing the eviction because she "was trying to work with him" and only filed the eviction at the Debtor's request, believing it would help him secure financial assistance from a veterans association.

By his own testimony, the Debtor was contemplating bankruptcy by July 2025. On September 16—shortly before initiating his bankruptcy case—he texted Parker that he had "been dealing with filing this bankruptcy" and relayed his belief that he was allowed to deal with the past debt owed to Weidl by working through a veterans association. (Ex. C). Parker testified that the Debtor told her he had spoken with an attorney and was thinking of pursuing bankruptcy relief.

The Debtor filed a petition for relief under chapter 7 of the Bankruptcy Code three days later on September 19, 2025 and listed Weidl as the holder of a non-priority unsecured claim in the amount of \$3,450. (Dkt. No. 1). The address for Weidl in the schedules and list of creditors is "2806 Reynolda Rd., Winston-Salem NC 27106." (Dkt. No. 1). On September 24, 2025, the Bankruptcy Noticing Center

(“BNC”) sent the Notice of Chapter 7 Bankruptcy Case to Weidl at that listed address by first class mail. (Dkt. Nos. 4, 11).

Weidl’s suite number, however, was omitted from that mailing address. Weidl’s principal office, as registered with the North Carolina Secretary of State, is located at 2806 Reynolda Rd., #172, Winston-Salem NC 27016.² Weidl maintains that it never received the Notice and had no knowledge of the Debtor’s bankruptcy case. (Dkt. No. 39). The Debtor points to nothing in the record that would support a finding that Weidl or Parker received the Notice of Chapter 7 Bankruptcy Case despite the missing suite number and, at the hearing, did not contest Weidl’s assertion that it did not receive the notice.

On September 25, 2025, Parker filed a Complaint in Summary Ejectment on behalf of Weidl. Though the Debtor testified that the veterans association he was working with—Tunnel to Towers—needed “an eviction notice” and “did not need an actual filing of an eviction,” he did not relay that concern to Parker, telling her instead via text message on September 29, 2025 that he “got the eviction notice,” that he sent the organization “what they need” and “if everything goes smoothly I think they can have it taken care of before that court date.” (Ex. C). The Forsyth District Court scheduled the matter for a small claims hearing at 9:30 a.m. on Monday, October 6, 2025.

On Saturday, October 4, 2025—two days before the scheduled small claims hearing—counsel for the Debtor, Robert Leftkowitz, asserts he attempted to contact Parker by phone but was unable to reach her. He also sent a text message, stating he had filed a bankruptcy case on the Debtor’s behalf, admonishing her of the potential violation of the automatic stay if she proceeded with the eviction action that Monday, and strongly suggesting she discuss the matter with her attorney. The text message and possibly a phone call, two days before the eviction hearing, were the only attempted communications from Debtor’s counsel to Weidl; he sent nothing

² The Court takes judicial notice of public records, such as information contained in the North Carolina Secretary of State database.

in writing regarding the eviction proceeding and made no attempt to reach Weidl prior to October 4.

Parker confirmed that on October 4, she “received a random message from a number [she] had never seen before” indicating to her that she “needed to know what [she] was getting into and not come to the court on October 6.” Parker stated she felt threatened receiving a message from an unfamiliar number, seemingly out of the blue and well outside of normal business hours, pushing her to consult with an attorney on the weekend before a Monday morning court hearing.

Parker attended the scheduled small claims calendar on Monday, both for the Debtor’s case as well as for several others. The Debtor also attending the hearing; though he testified that his plan with Tunnel to Towers “was all but ready to go until the day we showed up to Court,” he nevertheless expressed surprise at seeing Parker there. When the case was called, Parker offered the magistrate judge her customary answer as to why she was there, i.e. to pursue eviction and monetary relief. Though the Motion alleges that Parker proceeded to litigate the eviction complaint “with full force and vigor,” “vehemently,” and with “guns blaring,” (Dkt. No. 34, ¶¶ 12, 14), the Debtor’s own testimony paints a different picture. He conceded that Parker did not raise her voice and, when queried about her aggressiveness, responded only that she was “confident” and “looked very attentive and ready to go.” Following Parker’s comments, the Debtor informed the judge that he had filed bankruptcy, at which point the judge issued an administrative stay and informed the parties that any relief would have to be pursued through the bankruptcy court.

Weidl did not pursue the eviction after the hearing. Rather, the Debtor elected to leave the trailer, stating that “after all the eviction started, I definitely wanted to go ahead and move ... I wanted to move on and get a different place.” The Debtor also abandoned his efforts to secure financial assistance from a veterans association. Tunnel to Towers contacted Parker the same day as the eviction hearing—October 6, 2026—requesting additional documentation, which Parker provided, believing the Debtor “was still trying to work with Tunnel to Towers.” But

when Parker reached out to confirm the receipt of that paperwork, Tunnel to Towers informed her that the Debtor was no longer moving forward with the organization.”³

The Debtor testified as to compensatory damages he is seeking, including compensation for anxiety, blood pressure increases, and other health conditions, as well as application fees stemming from his efforts to find a new residence. In the Motion, the Debtor also alleged that he incurred attorney fees in excess of \$1,500 “to deal with this matter,” but he provided no further specifics through testimony and offered no itemized time entries or substantiating documents. The Debtor also seeks punitive damages against Weidl.

DISCUSSION

Immediately upon filing a bankruptcy petition, debtors receive protection from their creditors under 11 U.S.C. § 362(a), which prohibits—or stays—a variety of actions creditors might otherwise pursue on account of their claims against a bankrupt debtor. 11 U.S.C. § 362(a). This stay, which is a critical aspect of bankruptcy relief, *see Goldman Sachs Bank USA v. Brown*, 170 F.4th 249, 259 (4th Cir. 2026), specifically proscribes “any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case.” 11 U.S.C. § 362(a)(6). A bankruptcy stay arises immediately upon the filing of a petition; “formal service of process is not required, and no particular notice need be given in order to subject a party to the stay.” 3 COLLIER ON BANKRUPTCY ¶ 362.02 (16th ed. 2026). As a result, even if a party has no notice whatsoever, any act done in violation of the stay is subject to being undone by the court. *In re Carr*, No. 18-80386, 2019 WL 7840665, at *1 (Bankr. M.D.N.C. Nov. 18, 2019) (observing that the

³ The Debtor attributed his challenges securing financial assistance to Weidl and Tunnel to Towers, claiming that after the eviction hearing, “the organization [Tunnel to Towers] was very hesitant to move forward because they need to know that if they pay I’m going to be able to remain on the property and asking for eviction wasn’t what that was indicating to them...and at that point they wouldn’t approve it.” This testimony is inconsistent with his own text messages.

majority of bankruptcy courts within the Fourth Circuit find actions in violation of the automatic stay to be void).

When the automatic stay is violated, the Bankruptcy Code offers debtors an avenue for relief. Section 362(k)(1) provides that “an individual injured by any willful violation of a stay . . . shall recover actual damages, including costs and attorneys’ fees, and, in appropriate circumstances, may recover punitive damages.” 11 U.S.C. § 362(k)(1). An individual seeking damages for violation of the automatic stay must establish three elements: “(1) that the defendant violated the stay imposed by § 362(a), (2) that the violation was *willful*, and (3) that the plaintiff was injured by the violation.” *Houck v. Substitute Trustee Servs., Inc.*, 791 F.3d 473, 484 (4th Cir. 2015). A debtor bears the burden of establishing each element by a preponderance of the evidence. *In re Franklin*, 614 B.R. 534, 544 (Bankr. M.D.N.C. 2020); *In re Highsmith*, 542 B.R. 738, 747 (Bankr. M.D.N.C. 2015).

It is undisputed that the Debtor’s interest in, and right to use the leased trailer was part of the bankruptcy estate and subject to the automatic stay. There is also no dispute that Weidl filed its ejectment action and requested possession of the premises as well as past due rent before the state court after the petition date. These actions by Weidl, therefore, were in violation of the automatic stay imposed by § 362(a).

The question of whether Weidl’s actions were willful is less straightforward. “Once a creditor or other actor learns—or is put on notice of—debtor’s bankruptcy filing, any actions intentionally taken thereafter in violation of the automatic stay are in nature, ‘willful’ stay violations.” *In re Lyle*, 662 B.R. 229, 235 (Bankr. E.D.N.C. 2024); *see also Franklin*, 614 B.R. at 544. Though the Court itself provides written notice of the filing to creditors by first-class mail, *any* notice of the bankruptcy case—even informally—is sufficient to subject a party to potential sanctions for violations of the automatic stay. *See* 3 COLLIER ON BANKRUPTCY ¶ 362.02 (16th ed. 2026); *Franklin*, 614 B.R. at 545 (“Being advised of the filing of a bankruptcy case *in any form* places a creditor on notice of the bankruptcy filing.”) (quoting *In re Walters*, 219 B.R. 520, 526 (Bankr. W.D. Ark. 1998)).

Because the suite number was omitted from Weidl's address in the schedules and list of creditors and the Debtor offered no evidence demonstrating successful delivery despite the incomplete address, the Court is unable to find that the Notice of Chapter 7 Bankruptcy Case was mailed to Weidl by BNC on September 24. Therefore, Weidl's filing of the ejectment proceeding on September 25 did not constitute a willful violation of the automatic stay and any sanctions would be inappropriate given this absence of willfulness.

Nonetheless, the Debtor asserts he provided actual notice of the bankruptcy filing by Saturday, October 4, 2026, when Lefkowitz sent a text message to Parker stating, "I filed a Chapter 7 bankruptcy for [the Debtor], which would stay all Collection activities under the Bankruptcy code." This text message, he argues, alerted Weidl to the bankruptcy filing and Parker's request for eviction and past due rent at the October 6 hearing was thus a willful violation of the stay. Parker testified that she was skeptical of this "random message from a number I had never seen before," questioning whether it could be "[the Debtor] or someone else trying to scare me not to go to court." Even a dubious source, however, may be sufficient to trigger a creditor's potential liability, and "[i]f there are doubts about the veracity of the notice, it is incumbent upon the party receiving notice to determine for itself, before acting, whether a case has been filed." 3 COLLIER ON BANKRUPTCY ¶ 362.02 (16th ed. 2026); *see also In re Carter*, 691 F.2d 390 (8th Cir. 1982) (finding actual notice where debtor called creditor's attorney and informed him of the chapter 13 proceeding); *Franklin*, 614 B.R. at 545 ("Upon being advised, even informally by telephone, of the bankruptcy case, the creditor is on notice of the bankruptcy. The creditor has an affirmative duty to ascertain the correctness of the information or advice; it may not disregard information of the bankruptcy case.") (quoting *Walters*, 219 B.R. at 526).

Because she did not receive written notice, Parker, perhaps understandably, questioned the legitimacy of a Saturday text message from an unknown sender claiming to be an attorney. But "the law is very clear that once a party has notice that a bankruptcy has been filed, that party cannot just ignore that information

until receiving information in the form that party would like to have it.” *In re Edgewater Constr. Grp., Inc.*, 653 B.R. 221 (Bankr. S.D. Fla. 2023) (citation modified); *see also In re Warren*, 532 B.R. 655, 662 (Bankr. D.S.C. 2015) (telephone call from roommate and lawyer amounted to actual notice); *In re Glenn*, No. 25-14427, 2026 WL 970383, at *5 (Bankr. E.D. Pa. Apr. 9, 2026) (finding actual notice where Debtor told creditor he had filed for bankruptcy, even where creditor doubted the truth of the pronouncement and Debtor was unable to provide case information). Despite irregularities in its timing and form, the text message from Lefkowitz to Parker is enough, albeit barely so, for the Court to find Weidl had actual notice of the bankruptcy filing on October 4, 2026. As a result, Parker’s request for eviction and past due rent at the October 6 state court hearing constitutes a willful violation of the automatic stay despite her incredulity regarding the Debtor’s bankruptcy filing.

Once a willful stay violation is proven, the Court must award actual damages. *In re Franklin*, 614 B.R. at 548. “The burden is on the debtor to establish damages by a preponderance of the evidence, and the ‘award must be founded on concrete, non-speculative evidence.’” *In re Reid*, No. 25-10566, 2026 WL 120978, at *4 (Bankr. M.D.N.C. Jan. 15, 2026) (citation modified). But even if a debtor is unable to prove actual damages, the Court has discretion to award nominal damages and attorney fees. *See id.* (awarding pro se debtor \$1.00 in nominal damages); *In re Garner*, No. 09-81998, 2010 Bankr. LEXIS 721, 2010 WL 890406, at *4 (Bankr. M.D.N.C. Mar. 9, 2010) (awarding nominal damages and attorney fees); *In re Withrow*, 93 B.R. 436, 439 (Bankr. W.D.N.C. 1988) (awarding \$100 in nominal damages and attorney fees). Section 362(k)(1) also provides punitive damages for willful violations of the automatic stay in “appropriate circumstances.” 11 U.S.C. § 362(k).

The Court can dispense quickly with the Debtor’s request for punitive sanctions, which are typically awarded only where a party’s conduct is egregious, vindictive, or intentional. *See Franklin*, 614 B.R. at 549; *In re Randle*, No. 17-51312, 2018 WL 4211158, at *3 (Bankr. M.D.N.C. Sept. 4, 2018). Here, Weidl’s conduct at

the October 6 hearing—Parker’s brief summation of the basis for the eviction action followed immediately by the court’s administrative stay of the proceeding—falls well short of “a callous disregard for the automatic stay” and is not sufficiently egregious or vindictive to warrant punitive damages. *Franklin*, 614 B.R. at 549.

The Debtor also failed to provide any evidence of actual damages proximately caused by the stay violation at the October 6 hearing other than attorney fees and legal expenses in prosecuting the Motion. His testimony regarding the eviction’s impact on his health was both inconsistent and unsupported by admitted documentary evidence.⁴ The Court also declines to award damages for application fees connected to his search for a new residence where the record shows the Debtor left the trailer of his own volition rather than removal through eviction. Moreover, the Debtor presented no documentary evidence of any such fees, and his testimony on the subject was vague and highly speculative. And, though the Motion states the Debtor “had to appear in court to protect his interests,” he failed to present the Court with any evidence of an amount of lost wages⁵ or expenses, such as costs of childcare or transportation. *In re Garner*, No. 09-81998, 2010 WL 890406, at *4 (Bankr. M.D.N.C. Mar. 9, 2010).

The Court is left then to consider potential nominal damages and reasonable attorney fees that were required to remedy the stay violation. While an award of actual damages is mandatory once a creditor is shown to have willfully violated the automatic stay, a debtor also has a duty to mitigate any damages that may occur as a result of a stay violation. *In re Preston*, 333 B.R. 346, 350 (Bankr. M.D.N.C. 2005);

⁴ The Debtor testified as to anxiety and increased blood pressure after receiving the eviction notice, including an emergency room visit, but was unable to causally link those damages to the alleged stay violation or align his testimony with the documentary evidence. For instance, the Debtor testified that he had to go to the emergency room on October 2, 2025, “once he got the knock on the door with the eviction notice ... that day.” The text messages between the Debtor and Parker, however, show the Debtor received the eviction notice by September 29 at the latest, several days before his ER visit. The Debtor’s claims regarding the stress and anxiety he suffered from the eviction notice are also undercut by the record, which reflect that up until the hearing he believed things were going according to plan (Ex. C); indeed, he testified as to his surprise in seeing Parker at the hearing because he “assumed our agreement [regarding Tunnel to Towers] was still standing.”

⁵ The Debtor’s schedules reflect that he was unemployed at the time of filing and his testimony did not indicate any current employment. (Dkt. No. 1).

Clayton v. King (In re Clayton), 235 B.R. 801, 811 (Bankr. M.D.N.C. 1998).

"Although the Bankruptcy Code does not require a debtor to warn his creditors of existing violations prior to moving for sanctions, the debtor is under a duty to exercise due diligence in protecting and pursuing his rights and in mitigating his damages with regard to such violations." *Clayton*, 235 B.R. at 811.

In *Preston*, this Court found that allowing the creditor's attorney "two or three days to correct the situation before filing a motion for sanctions was an insufficient amount of time under the circumstances," concluding that the matter "could have been resolved without the necessity for Court intervention had counsel taken the time to properly communicate with each other." *Preston*, 235 B.R. at 350-51. The Court noted the only damages the debtor sustained were the attorney costs to litigate the stay violation motion, which "could have easily been mitigated." *Id.* at 351. Given its finding that the only damages were those "manufactured by the Debtor's counsel," the Court denied the motion for sanctions in its entirety. *Id.*

The manufactured nature of damages and the lack of due diligence discussed in *Preston* are strikingly similar to the Debtor's approach here. Weidl filed the ejectment action *at the Debtor's request* to assist his efforts with Tunnel to Towers, which the Debtor then abandoned after the hearing. The Debtor's own misaddressing errors in the schedules and list of creditors left Weidl without written notice of the bankruptcy case prior to filing the action on September 25. And despite receiving the eviction notice by September 29—with full awareness of the October 6 hearing date—the Debtor and Lefkowitz waited five days to contact Weidl, doing so by text message to Parker on a Saturday, two days before the scheduled Monday morning hearing. The Debtor offered no explanation as to why Weidl was not contacted during business hours the week prior and in a manner that comported with generally accepted practices in this district.

"The automatic stay is one of the fundamental debtor protections provided by the bankruptcy laws," *Grady v. A.H. Robins Co., Inc.*, 839 F.2d 198, 200 (4th Cir. 1988), but "was not designed to be used as a kind of spring-loaded gun against creditors who wander into traps baited by the debtor." *Clayton*, 235 B.R. at 807.

Putting aside the inaccurate address he provided for Weidl in his creditor list and schedules, the Debtor could have prevented Parker's appearance at the eviction hearing by simply providing a copy of the Notice of Chapter 7 Bankruptcy Case or otherwise contacting Weidl during regular business hours at any time in the week prior to the hearing. Instead, having created the conditions in which Parker made her appearance at a hearing for an ejectment action filed at the Debtor's request, and despite the administrative stay subsequently imposed, the Debtor filed a sanctions motion against Weidl to pursue exaggerated and attenuated damages—beginning with a sanctions motion that, in light of the Debtor's own testimony, patently misrepresented Parker's conduct at the hearing.

Overall, the record leaves the impression of an opportunistic debtor creating the conditions for a technical violation of the stay and then seizing upon the creditor's misstep to pursue manufactured damages akin to those discussed in *Preston*. 235 B.R. at 350-51. Under these circumstances, the Court, in its discretion, finds an award of nominal damages unwarranted. Further, the Court cannot find any amount of attorney fees incurred for filing and prosecuting the Motion to be reasonable.⁶

Therefore, for the foregoing reasons, **IT IS HEREBY ORDERED** that the Debtor's Amended Motion for Sanctions against Weidl Properties LLC is **DENIED**.

END OF DOCUMENT

⁶ The Court cautions Weidl, however, that it must investigate any notice of a bankruptcy filing, even if conveyed by informal and irregular means, before continuing with any eviction or collection action.

PARTIES TO BE SERVED

Brandon Keith Swaim (Ch.7)

25-50593

Robert A. Lefkowitz, Debtor's Attorney
via cm/ecf

Samantha K. Brumbaugh, Trustee
via cm/ecf

John Paul Hughes Cournoyer, BA
via cm/ecf

Brian H. Elam, Attorney for Weidl Properties, LLC
via cm/ecf

Brian H. Elam, Attorney for Weidl Properties, LLC
351 N. Peace Haven Court
Winston-Salem, NC 27104

Brandon Keith Swaim
3160 Dunn St. Trlr 17
Winston Salem, NC 27103

Weidl Properties LLC
2806 Reynolda Rd., Suite 172
Winston-Salem, NC 27106