

debtors filed an adversary complaint asserting that appellee's repossession of the vehicles violated 13 Pa. C.S.A. §§ 9503(a) and 9507 and was a common law breach of the peace and trespass. On January 26, 1998 the Bankruptcy Court, sua sponte, raised the issue of subject matter jurisdiction and, on February 19, 1998, dismissed the adversary complaint. Jurisdiction here is 28 U.S.C. § 158(a).

Our Court of Appeals has instructed:

[A] bankruptcy court can act only in cases and proceedings within its jurisdiction. Bankruptcy courts have original jurisdiction over: (1) cases under Title 11; (2) proceedings arising under Title 11; proceedings arising in a case under Title 11; and (4) proceedings related to a case under Title 11. 28 U.S.C. § 1334. A case under Title 11 is the bankruptcy petition itself, a basis for jurisdiction clearly not applicable here. A proceeding fitting within any of the three remaining categories is within the bankruptcy court's jurisdiction and, since the third category is the broadest, a court "need only determine 'whether a matter is at least related to the bankruptcy.'" In re Marcus Hook Dev. Park, Inc., 943 F.2d 261, 264 (3d Cir. 1991) (citations omitted). A proceeding is "related to" the bankruptcy if "the outcome of that proceeding could conceivably have any effect on the estate being administered in bankruptcy." Pacor, Inc. v. Higgins, 743 F.2d 984, 994 (3d Cir. 1984).

Donaldson v. Bernstein, 104 F.3d 547, 552-53 (3d Cir. 1997).

Appellants argue that the adversary complaint is either (1) a core proceeding arising under Title 11; or (2) a non-core proceeding related to a case under Title 11. Brief, at 6, 8. "[A] proceeding is core under [28 U.S.C. § 157(b)(2)] if it invokes a substantive right provided by title 11 or if it is a proceeding that, by its nature, could arise only in the context of a

bankruptcy case." In re Marcus Hook Dev. Park, Inc., 943 F.2d 261, 267 (3d Cir. 1991) (internal quotations and citations omitted).

Appellants' position is that the Bankruptcy Court order granting relief from the automatic stay impliedly required that repossession be effectuated in accordance with state law. Appellee's alleged violation of state law thereby conferred jurisdiction on the Bankruptcy Court. Brief, at 6.

It is undisputed, however, that property of the bankrupt estate – the automobiles – is not the subject of the adversary complaint, which pertains solely to the process of repossession.³ Id. "If the action does not involve property of the estate, then not only is it a noncore proceeding, it is an unrelated matter completely beyond the bankruptcy court's subject matter jurisdiction." In re Guild and Gallery Plus, Inc., 72 F.3d 1171, 1181 (3d Cir. 1996) (quoting In re Gallucci, 931 F.2d 738, 742 (11th Cir. 1991)). Guild held that a consent order could not "be utilized to support a finding of subject matter jurisdiction over claims that otherwise could not be heard in bankruptcy court. [Pacor, Inc. v. Higgins, 743 F.2d 984 (3d Cir. 1984)] cannot be read to countenance this sort of bootstrapping." 72 F.3d at 1182. Similarly, the May 9, 1997 Bankruptcy Court order did not create subject matter jurisdiction for claims that cannot "stand on their own as either core or related proceedings." Id.

³ A state law violation claim could be brought in state court.

This case is distinguishable from Donaldson v. Bernstein, 104 F.3d 547 (3d Cir. 1997), because here the integrity of the bankruptcy proceedings is not affected by any state law violations allegedly committed by appellee. The argument that relatedness is present because a money judgment against appellee could operate as a set off also is rejected. The outcome of the state law claim is not related to the bankruptcy. See In re Smith, 866 F.2d 576, 580 (3d Cir. 1989) (relatedness requires impact on "debtor's rights, liabilities, options, or freedom of action" or "the handling and administration of the bankrupt estate" (citing Pacor, 743 F.2d at 994)).

Edmund V. Ludwig, J.