

The Missing Model A

IN CERTAIN CIRCUMSTANCES, the U.S. Bankruptcy Code reflects a policy meant to help give people and businesses a “fresh start.” On the other hand, if the bankrupt person or entity acts in a manner that is prohibited, the relief from debt sought may be denied. This brings us to the case of *Burdick v. Bryant*, decided on June 12, 2012, by the United States Bankruptcy Court for the Central District of Illinois.

According to the court, Charles Burdick owned a 1931 Ford Model A that his grandfather had purchased in the late 1960s. His grandfather had, over the years, purchased numerous parts in anticipation of someday having the car restored. During that time, the vehicle was stored and no attempts at fixing it were made. Finally, in November 2005, Burdick, deciding the time had come, contacted a company with expertise in rebuilding antique engines. Bryant, a machinist employed by that company, answered the phone. As a result of the conversation, Burdick agreed to employ Bryant, individually, and not the company, to remove and rebuild the car’s engine for \$500. The parties also discussed the car’s restoration, agreeing that Bryant would do the necessary bodywork, using, adding or replacing to the trove of parts that had been acquired by Burdick’s grandfather. The terms of compensation for the bodywork, however, were not nailed down.

Suffice it to say that the project did not go well. Among other problems, the Model A’s body and engine apparently disappeared.

Burdick sued Bryant in state court. Then Bryant filed for bankruptcy. In turn, Burdick filed a suit in United States Bankruptcy Court asking the court to rule that his claim for damages against Bryant relating to the Model A should not be discharged (i.e., not be among those debts and obligations that the bankruptcy court would wipe clean).

The court ruled in favor of Burdick, deciding that his claim against Bryant for damages relating to the Model A would survive the bankruptcy proceeding. The



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court began its analysis by noting that, “to effectuate the ‘fresh start’ policy of the Bankruptcy Code,” a high burden of proof is placed on the creditor to show that the debts and obligations in question should not be wiped clean. However, Burdick claimed that Bryant had “converted” the Model A. In this context, conversion does not mean physical modification—it is a legal concept meaning an unauthorized act that wrongly deprives an owner of his or her property. Burdick claimed that because of such conversion, the bankruptcy court should not wipe clean Bryant’s debt obligation to Burdick.

The court noted: “What actually happened to the Model A remains a mystery. Burdick was unable to prove who took it or where it went.” The court also observed that no evidence was offered that Bryant received money or anything else of value for the car. However, based on an extensive review of the unusual facts of the case (which included an assertion that “two mysterious men” had picked up the Model A), the court concluded that the Model

A was transferred with Bryant’s knowledge. The court found by a preponderance of the evidence that Burdick’s loss of the Model A was caused by Bryant’s intentional act of conversion.

The court found that the conversion—defined as a prohibited act of intentional harm to the property interest of another without legal justification—fit within the Bankruptcy Code provision which states that a debt for willful and malicious injury to property is nondischargeable and will not be wiped away in a bankruptcy proceeding.

Finally, the court turned to figuring out the amount of the debt. It started with the opinion of Cary Veit, of Veit’s Vettes & Collector Cars, who testified on Burdick’s behalf. Veit’s opinion was that the Model A was worth \$11,443.93 as of May 30, 2010. Veit admitted that his valuation would have to be reduced by \$2,000 because the vehicle was not in operating condition. In addition, a large number of loose parts were given to Bryant, many of which were returned. Veit’s appraisal report stated: “Body has wrinkles and some dents. All sheetmetal is original and in mostly good overall condition for age. Vehicle has been repainted but it’s old and of low quality. All original, no restoration has been performed at the time I’ve viewed photos of car.” Veit acknowledged that his appraisal was based solely on photographs of the car taken on the day that possession of it was first transferred to Bryant; he never actually saw or inspected the Model A in person.

The court concluded: “Under the circumstances, the value of what was taken is not susceptible to an exact mathematical calculation. Valuation is an art, not a science, and the circumstances of Veit’s appraisal were far less than optimal. In the court’s opinion, a fair valuation of the Model A body and the engine, in its non-operating condition, is \$6,000. In addition, Burdick is entitled to be reimbursed the \$1,500 he paid [Bryant]. Judgment will be entered for \$7,500 plus costs of \$250.”