



**SO ORDERED.**

**SIGNED this 28th day of August, 2023**

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.  
PLEASE SEE DOCKET FOR ENTRY DATE.**

  
Suzanne H. Bauknight  
UNITED STATES BANKRUPTCY JUDGE

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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

ANTHONY BRYAN GOOLSBY  
JENNIFER MARIE GOOLSBY

Case No. 3:22-bk-30757-SHB  
Chapter 7

Debtors

ANN MOSTOLLER, TRUSTEE

Plaintiff

v.

Adv. Proc. No. 23-ap-03002-SHB

JAMES BEECH

Defendant

**MEMORANDUM AND ORDER ON  
MOTION FOR SUMMARY JUDGMENT**

Plaintiff initiated this adversary proceeding on January 4, 2023, through the filing of her Complaint seeking to avoid, pursuant to 11 U.S.C. § 548, the transfer of a 2017 Keystone 271 camper ("Camper") to Defendant, who is the brother of Debtor Anthony Bryan Goolsby ("Debtor"), and for turnover of the Camper or \$11,500.00, as the reasonable value of the

Camper, for the benefit of Debtors' bankruptcy estate. [Doc. 1 at ¶ B.] Defendant answered on February 13, 2023 [Doc. 5], asserting that Plaintiff failed to establish a prime facie cause of action under § 548 and that the transfer was for value in excess of \$21,000.<sup>1</sup>

Defendant filed his Motion for Summary Judgment ("Motion") on June 5, 2023, together with a Statement of Undisputed Facts, collective exhibits, affidavits, and a brief. [Docs. 16-18.] He argues that he paid reasonably equivalent value for the Camper and that there are no undisputed facts in this case so that he is entitled to dismissal of the Complaint as a matter of law. In support of the Motion, Defendant relies on the Certificate of Title for the Camper, reflecting that the lien was released December 15, 2021; Affidavits of Defendant and Debtor attesting that Defendant made twenty-nine payments to the lien holder totaling \$16,186.49 for the Camper; and an exhibit that appears to be a screenshot from a smart phone as proof the payments were made. [See Doc. 18-1.]

On June 26, 2023, Plaintiff responded to the Motion and Statement of Undisputed Facts, filing a brief and an additional Statement of Undisputed Facts supported by her own affidavit and the affidavit of her paralegal with vehicle records attached [Docs. 20-23]. She does not dispute some of the documentation offered or facts stated by Defendant; however, she disputes Defendant's assertions that the list of payments attached as Exhibit A to Defendant's Affidavit show that the payments were made by Defendant to the lienholder and that the Camper was transferred to Defendant. [Doc. 20.] Plaintiff relies on title records showing that Debtor has not transferred the Camper's title to Defendant and an Accuprint vehicle record showing that the Camper remained titled in Debtor's name after the bankruptcy case was filed. [Doc. 23 at ¶¶ 1, 2.] Plaintiff also asserts that many of the Debtor's undisputed facts were allegations rather than

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<sup>1</sup> A scheduling conference is scheduled for September 14, 2023. [See Doc. 27].

statements of fact.<sup>2</sup> [Doc. 22 at ¶ 5-11.] Defendant did not respond to Plaintiff's Statement of Undisputed Facts.

### **I. Summary Judgment Standard**

“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c) (made applicable here by Fed. R. Bankr. P. 7056). The court does not weigh the evidence to determine the truth of the matter asserted when deciding a motion for summary judgment but simply determines whether a genuine issue for trial exists. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). “As to materiality, the substantive law will identify which facts are material, [and o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Id.* at 248; *see also DXS, Inc. v. Siemens Med. Sys., Inc.*, 100 F.3d 462, 467 (6th Cir. 1996) (“A factual dispute is ‘genuine’ if a reasonable factfinder could return a verdict for the nonmoving party.”).

As the moving party, Defendant must prove that he is entitled to judgment as a matter of law because “the record taken as a whole could not lead a rational trier of fact to find for the non-moving party [and] there is no ‘genuine issue for trial.’” *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986) (quoting *First Nat’l Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 289 (1968)).

The party bringing the summary judgment motion has the initial burden of informing the . . . court of the basis for [the] motion and identifying portions of the record that demonstrate the absence of a genuine dispute over material facts. *Mt. Lebanon Personal Care Home, Inc. v. Hoover Universal, Inc.*, 276 F.3d 845, 848 (6th Cir. 2002). Once that occurs, the party opposing the motion then may not “rely on the hope that the trier of fact will disbelieve the movant’s denial of a disputed

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<sup>2</sup> The Court notes that, generally, Defendant’s Statement of Undisputed Facts fails to comply with E.D. Tenn. LBR 7056-1(a), which requires: “Each fact must be set forth in a separate, numbered paragraph and supported by specific citation to material allowed by Fed. R. Civ. P. 56(c) that establishes the fact. Failure to submit such a statement may constitute grounds for denial of the summary judgment motion.”

fact” but must make an affirmative showing with proper evidence in order to defeat the motion. *Street v. J.C. Bradford & Co.*, 886 F.2d 1472, 1479 (6th Cir. 1989).

*Alexander v. CareSource*, 576 F.3d 551, 558 (6th Cir. 2009); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986). The Court must review the facts and all resulting inferences in a light most favorable to Plaintiff and decide whether “the evidence presents a sufficient disagreement to require submission to a [factfinder] or whether it is so one-sided that one party must prevail as a matter of law.” *Anderson*, 477 U.S. at 243.

## II. Undisputed Facts

The following facts are not disputed. [See Docs. 1, 5, 18, 22.<sup>3</sup>] Debtors filed the Voluntary Petition commencing their Chapter 7 bankruptcy case on May 16, 2022, and Plaintiff was appointed as Chapter 7 Trustee. [Doc. 1 at ¶¶ 1, 3; Doc. 5 at ¶¶ 1, 3; Doc. 18 at ¶¶ 1-2; Doc. 22 at ¶¶ 1-2.] In response to question 18 of their Statement of Financial Affairs, Debtors listed the transfer of the Camper in 2021 to Defendant, stating that “Brother paid off loan in consideration for camper.” [Bankr. Doc. 1 at p. 15; *see also* Doc. 18 at ¶ 2; Doc. 22 at ¶ 2.] Full payment on an account owed by Debtors to ORNL was made. [Doc. 18 at ¶ 4; Doc. 22 at ¶ 4.] Plaintiff filed this adversary proceeding on November 3, 2021, to avoid the transfer of the Camper from Debtor to Defendant. [Doc. 1.]

Additionally, despite repeated requests by Plaintiff, Debtor failed to produce a copy of the title to the Camper showing that it was transferred out of his name.<sup>4</sup> [Doc. 23 at ¶ 1.] In fact, pursuant to the Accuprint vehicle records dated June 21, 2022 (approximately one month after

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<sup>3</sup> The Court also takes judicial notice, pursuant to Federal Rule of Evidence 201, of material facts of record in this adversary proceeding and in Debtors’ underlying bankruptcy case. References to documents in the bankruptcy case will be to [Bankr. Doc. \_\_\_\_].

<sup>4</sup> These facts, which were included in Plaintiff’s Statement of Material Facts, are deemed admitted because Defendant has not disputed them as required by E.D. Tenn. LBR 7056-1(b) and (c) (“The movant must respond to the statement [of additional undisputed material facts filed by a respondent] within 14 days after service of the statement of additional undisputed material facts.”).

the bankruptcy case was filed), the Camper remained titled in the name of Debtor. [Doc. 23 at ¶ 2.]

### III. Relevant Law

A trustee may avoid any transfer “of an interest of the debtor in property” that occurred within two years before the petition date if the debtor “received less than reasonably equivalent value in exchange for such transfer . . . [and] was insolvent on the date that such transfer was made . . . or became insolvent as a result of such transfer[.]” 11 U.S.C. § 548(a)(1)(B)(i), (ii)(I). The phrase “interest of the debtor in property” is interpreted “as including in a debtor’s estate ‘that property that would have been part of the estate had it not been transferred before the commencement of the bankruptcy proceedings.’” *Stevenson v. J.C. Bradford & Co. (In re Cannon)*, 277 F.3d 838, 849 (6th Cir. 2002) (quoting *Begler v. IRS*, 496 U.S. 53, 58 (1990) and citing 11 U.S.C. § 541(a)(1), (d)<sup>5</sup>).

Although the Bankruptcy Code provides that a debtor’s bankruptcy estate consists of “all legal and equitable interest of the debtor in property as of the commencement of the case,” 11 U.S.C. § 541(a)(1), it does not define what constitutes the property within a debtor’s bankruptcy estate. Instead, state law – here, Tennessee law – determines what property qualifies as estate property. *Butner v. United States*, 440 U.S. 48, 55 (1979). Under Tennessee law, owners of motor vehicles, including campers, must register ownership with the Tennessee Department of

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<sup>5</sup> Subsection (d) states:

Property in which the debtor holds, as of the commencement of the case, only legal title and not an equitable interest, such as a mortgage secured by real property, or an interest in such a mortgage, sold by the debtor but as to which the debtor retains legal title to service or supervise the servicing of such mortgage or interest, becomes property of the estate under subsection (a)(1) or (2) of this section only to the extent of the debtor's legal title to such property, but not to the extent of any equitable interest in such property that the debtor does not hold.

11 U.S.C. § 541(d).

Safety by filing an application with the county clerk, must prove ownership through valid documentation, and must pay the appropriate fees, after which a certificate of title and license plate will be issued. *See* Tenn. Code Ann. § 55-3-103. Nevertheless,

[u]nder Tennessee law, ownership of a vehicle is determined by the intent of the parties and is not conclusively determined by the certificate of title. *Smith v. Smith*, 650 S.W.2d 54, 56 (Tenn. Ct. App. 1983). Ownership is a question of fact. *Cunningham v. Dep't of Safety*, No. 01A01-9509-CH-00411, 1997 WL 266851, at \*2 (Tenn. Ct. App. May 21, 1997). In determining ownership of a vehicle, the trier of fact may consider such evidence as: (1) the circumstances surrounding the vehicle's purchase; (2) the registration of the vehicle; (3) all aspects of insuring the vehicle; (4) the parties' respective financial stakes in the vehicle; (5) the actual possession of the vehicle; (6) the responsibility of bearing the expense of operating, maintaining, and licensing the vehicle; and (7) the ultimate right to control the vehicle and to make major decisions concerning the vehicle such as its use and restrictions on its use or sale, or other disposition of the vehicle. *Id.*

*Gipson v. State Farm Fire & Cas. Co.*, No. W2013-02872-COA-R3-CV, 2014 WL 5591048, at \*5 (Tenn. Ct. App. Nov. 4, 2014); *accord Brewer v. Brewer*, No. M2010-00768-COA-R3CV, 2011 WL 532267, at \*4-5 (Tenn. Ct. App. Feb. 14, 2011) (affirming the trial court's factual findings as to which parties paid for and maintained insurance on vehicles); *In re Hensley*, 393 B.R. 186, 193 (Bankr. E.D. Tenn. 2008) (determining that married debtors jointly owned vehicles notwithstanding that only one debtor was listed as the owner on the certificate of title).

In support of his argument that Plaintiff cannot meet the threshold issue under § 548 that the transfer to be avoided was a transfer of a property interest held by Debtor, Defendant relies on his assertion that he paid equivalent value and that Defendant made Debtor's loan payments in consideration for the transfer of the Camper. [Doc. 16 at ¶ 6]. Debtor's assertion that he transferred the Camper to Defendant in exchange for payments is evidence of the transfer, but the vehicle record obtained by Plaintiff from Accuprint, which reflects that the Camper remained titled to Debtor one month after the bankruptcy petition was filed creates a genuine issue of material fact. *See Cunningham*, 1997 WL 266851, at \*2 (discussing that whether a legal transfer

occurred under Tennessee law “is a question of fact”). Further, Defendant’s inclusion with his affidavit of a copy of an unexplained screenshot from a smart phone is insufficient proof, at least at the summary judgment stage, of actual payments from Defendant to Debtor’s secured creditor, which might show that Defendant gave reasonably equivalent value for the Camper.

#### **IV. ORDER**

For the forgoing reasons, the Court directs that the Motion for Summary Judgment filed on June 6, 2023 [Doc. 16], is DENIED.

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