

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Thomas Holman  
Bankruptcy Judge  
Sacramento, California

**January 28, 2014 at 9:31 A.M.**

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**PLEASE TAKE NOTE: This calendar will be heard by the Hon. Whitney Rimel.**

1. [13-33900](#)-B-7 DAYY PAYNE MOTION FOR RELIEF FROM  
RMD-1 AUTOMATIC STAY  
12-23-13 [[23](#)]  
WELLS FARGO BANK, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d) (1) and (d) (2) in order to permit the movant to foreclose on the real property located at 680 San Joaquin Court, Atwater, California (APN 004-360-040-000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees or costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a) (3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make ten (10) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

2. [13-33107](#)-B-7 BUTTE STEEL & MOTION FOR RELIEF FROM  
RJW-3 FABRICATION, INC. AUTOMATIC STAY  
1-10-14 [[70](#)]  
NORTHERN CALIFORNIA NATIONAL  
BANK VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f) (2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

3. [12-35709](#)-B-7 ARTURO SANCHEZ MOTION FOR RELIEF FROM  
BER-1 AUTOMATIC STAY  
12-31-13 [[20](#)]  
BANK OF STOCKTON VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 3115 Fruitridge Road, Sacramento, California (APN 019-0021\_045) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed plus costs of \$176, to be enforced only against the movant's collateral. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make eighteen (18) payments on the obligation secured by the Property. The trustee has filed a report of no distribution. These facts constitute cause for relief from the automatic stay.

Because the value of the collateral exceeds movant's claim, movant is awarded attorneys fees equal to the lesser of \$675 or the amount actually billed plus costs of \$176. These fees and costs may be enforced only against the movant's collateral.

The court will issue a minute order.

4. [08-22725](#)-B-11 BAYER PROTECTIVE MOTION FOR RELIEF FROM  
JHK-3 SERVICES, INC. AUTOMATIC STAY  
12-19-13 [[706](#)]  
FORD MOTOR CREDIT COMPANY,  
LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. To the extent that it applies, the automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) in order to permit the movant to obtain possession of its collateral, a 2007 Ford Focus (VIN 1FAHP34N57W194348) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

The debtor confirmed a chapter 11 plan in this case on January 3, 2011. The chapter 11 plan (Dkt. 652) provides for the movant's secured claim in Article IV, § 4.01 B. ii. as Class 1.1. The class is treated as unimpaired. The monthly installments on each vehicle loan, including the loan secured by the Collateral, are to continue as operating expenses not contingent upon Net Cash Flow. Except where the terms have been renegotiated, the terms and conditions of the pre-petition documentation remain in full force and effect.

Under Article IX of the plan, the debtor will not be discharged until completion of the plan: when all payments required by the plan have been made or the Plan Term (five years from the confirmation date of January 3, 2011, subject to an automatic one year extension if distributions to priority tax claimants have been less than \$500,000) expires. Under Article VIII, § 8.07, the assets of the estate remain in the post-confirmation estate for the duration of the plan.

Based on the foregoing, the automatic stay as to the Collateral remains in effect at the present time, post-confirmation. The movant alleges without dispute that it has not received any payments on account of the loan secured by the Collateral since January 4, 2011, and that the loan is in default. The foregoing facts constitute cause for relief from the automatic stay.

The court will issue a minute order.

5. [08-22725](#)-B-11 BAYER PROTECTIVE SERVICES, INC. MOTION FOR RELIEF FROM AUTOMATIC STAY  
JHK-4 12-19-13 [[712](#)]  
FORD MOTOR CREDIT COMPANY,  
LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. To the extent that it applies, the automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d) (1) in order to permit the movant to obtain possession of its collateral, a 2007 Ford Explorer (VIN 1FMEU73E17UB71302) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 14-day period specified in Fed. R. Bankr. P. 4001(a) (3) is ordered waived. Except as so ordered, the motion is denied.

The debtor confirmed a chapter 11 plan in this case on January 3, 2011. The chapter 11 plan (Dkt. 652) provides for the movant's secured claim in Article IV, § 4.01 B. ii. as Class 1.1. The class is treated as unimpaired. The monthly installments on each vehicle loan, including the loan secured by the Collateral, are to continue as operating expenses not contingent upon Net Cash Flow. Except where the terms have been renegotiated, the terms and conditions of the pre-petition documentation remain in full force and effect.

Under Article IX of the plan, the debtor will not be discharged until completion of the plan: when all payments required by the plan have been made or the Plan Term (five years from the confirmation date of January 3, 2011, subject to an automatic one year extension if distributions to priority tax claimants have been less than \$500,000) expires. Under Article VIII, § 8.07, the assets of the estate remain in the post-confirmation estate for the duration of the plan.

Based on the foregoing, the automatic stay as to the Collateral remains in effect at the present time, post-confirmation. The movant alleges without dispute that it has not received any payments on account of the loan secured by the Collateral since January 4, 2011, and that the loan is in default. The foregoing facts constitute cause for relief from the automatic stay.

The court will issue a minute order.

6. [08-22725](#)-B-11 BAYER PROTECTIVE MOTION FOR RELIEF FROM  
JHK-5 SERVICES, INC. AUTOMATIC STAY  
12-19-13 [[718](#)]  
FORD MOTOR CREDIT COMPANY,  
LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. To the extent that it applies, the automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) in order to permit the movant to obtain possession of its collateral, a 2008 Ford Focus (VIN 1FAHP35N28W120868) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

The debtor confirmed a chapter 11 plan in this case on January 3, 2011. The chapter 11 plan (Dkt. 652) provides for the movant's secured claim in Article IV, § 4.01 B. ii. as Class 1.1. The class is treated as unimpaired. The monthly installments on each vehicle loan, including the loan secured by the Collateral, are to continue as operating expenses not contingent upon Net Cash Flow. Except where the terms have been renegotiated, the terms and conditions of the pre-petition documentation remain in full force and effect.

Under Article IX of the plan, the debtor will not be discharged until completion of the plan: when all payments required by the plan have been made or the Plan Term (five years from the confirmation date of January 3, 2011, subject to an automatic one year extension if distributions to priority tax claimants have been less than \$500,000) expires. Under Article VIII, § 8.07, the assets of the estate remain in the post-confirmation estate for the duration of the plan.

Based on the foregoing, the automatic stay as to the Collateral remains in effect at the present time, post-confirmation. The movant alleges

without dispute that it has not received any payments on account of the loan secured by the Collateral since November 26, 2013, which payment was applied to an installment due April 20, 2010, and that the loan is in default. The foregoing facts constitute cause for relief from the automatic stay.

The court will issue a minute order.

7. [13-24136](#)-B-7 GERALD DECAMP MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
12-18-13 [[40](#)]  
  
TOYOTA MOTOR CREDIT  
CORPORATION VS.  
WITHDRAWN BY M.P.

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is removed from the calendar. The movant withdrew the motion on January 6, 2014 (Dkt. 46).

8. [13-24145](#)-B-7 THE CALIFORNIA AMENDED MOTION FOR RELIEF FROM  
HPS-1 HOSPITALIST PHYSICIANS, AUTOMATIC STAY  
12-23-13 [[73](#)]  
  
DAMERON HOSPITAL ASSOCIATION  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. Pursuant to 11 U.S.C. § 362(d)(1), the automatic stay is modified to permit the movant to prosecute its cross-claims against the debtor in arbitration for the purpose of establishing the debtor's liability to the movant, provided that the movant does not execute on any potential judgment against the debtor. Except as so ordered, the motion is denied.

The court will issue a minute order.

9. [12-37383](#)-B-7 MICHELLE/TREVOR MOTION FOR RELIEF FROM  
PD-1 STROSNIDER AUTOMATIC STAY  
12-20-13 [[59](#)]  
  
WELLS FARGO BANK, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the

debtors, the motion is dismissed as moot. The debtors received a discharge on January 14, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1241 Kirkhill Drive, Roseville, CA 95747 (APN 490-200-021-000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. The court does not award the movant attorney's fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make two (2) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.