

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge  
Sacramento, California

January 29, 2019 at 1:30 p.m.

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1. 16-26411-C-13 LANNIS/JAMIE POPE MOTION FOR RELIEF FROM  
AP-1 Timothy Walsh AUTOMATIC STAY  
10-25-18 [65]  
HSBC BANK USA, N.A. VS.

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**Tentative Ruling:** The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on October 25, 2018. 28 days' notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

**The Motion is granted and the court shall issue an order confirming the modification of the automatic stay as provided in the confirmed Chapter 13 Plan.**

HSBC Bank USA, National Association as Trustee for Wells Fargo Asset Securities Corporation, Mortgage Asset-Backed Pass-Through Certificates, Series 2007-PA3("Movant") seeks relief from the automatic stay with respect to Lannis Sheppard Pope and Jamie Anne Pope DBA Restless Gypsy's ("Debtors") real property commonly known as 762 Lakeshore Court, Fairfield, California ("Property"). Movant asserts that Debtors' confirmed Plan contains an "Ensminger Provision" which states that if the Debtors are both unsuccessful in obtaining a loan modification and a modified plan is not confirmed within (14) days of the mailing the of the denial of the loan modification, then Movant may seek relief from stay after a (17) day waiting period. Movant claims here that on January 18, 2018, Movant mailed Debtors' counsel a written loan modification application denial letter. Dckt. 69, Exhibit 6. The Debtors have not modified their plan to provide for the unpaid arrears and more than (17) days have past since January 18, 2018.

The Motion requests that the court terminate the stay as to Movant and its successors or assignees.

## **DISCUSSION**

As asserted by Movant, the language in Debtor's Plan in Section 6.01.6 permits the Movant to seek, by way of an ex parte motion, relief from the stay. The court then is tasked with determining if the grounds for such relief are present. The court notes the Plan language required creditor Wells Fargo to communicate *in writing* the denial of a loan modification to *both* the "debtors and their counsel." Dckt. 5, Section 6.01.4. Based on Movant's Motion the denial of the loan modification was sent only to Debtors' counsel on January 18, 2018. Upon review of Exhibit 6, the court notes that only Debtor's counsel's address is reflected on the letter. It is not clear whether Debtors in fact received a written communication.

**At the hearing -----.**

## **DECISION:**

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by HSBC Bank USA, National Association as Trustee for Wells Fargo Asset Securities Corporation, Mortgage Asset-Backed Pass-Through Certificates, Series 2007-PA3("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** the automatic stay provisions of 11 U.S.C. § 362(a) are

vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 762 Lakeshore Court, Fairfield, California, (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

No other or additional relief is granted.

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DAVID MEYERS VS.

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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 31, 2018. 28 days' notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is denied.**

David C. Meyers ("Movant") seeks relief from the automatic stay with respect to Scott Brow and Melinda Brown's ("Debtors") real property commonly known as 1704 10<sup>th</sup> Avenue, Olivehurst, California ("Property"). Movant has provided the Declaration of David C. Meyers to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The David C. Meyers Declaration states that there is one post-petition default on the obligation secured by the Property, with a total of \$854.56 in post-petition payments past due. The Declaration also provides evidence that there are seven pre-petition payments in default, with a pre-petition arrearage of \$5,981.92.

#### CHAPTER 13 TRUSTEE'S RESPONSE

David C. Cusick ("the Chapter 13 Trustee") filed an Opposition on January 14, 2019. Dckt. 26. The Trustee asserts that the Movant did not serve the Relief From Stay Summary Sheet Pursuant to Local Rule 4001-1(a)(3). The court notes that the Summary Sheet was filed with the court on January 17, 2019. Dckt. 35.

The Trustee notes that the Movant is included in Class 1 of the proposed Plan regarding the Property with a monthly post-petition payment of \$854.00 and pre-petition arrears of \$9,416.00 with a

monthly dividend of \$184.63. The Movant also has a pending Objection to Confirmation set for hearing on January 29, 2019 claiming that the pre-petition arrears are actually \$13,964.92.

## **DEBTORS' RESPONSE:**

Debtors respond that they Object to the Proof of Claim, as filed, because it does not include sufficient information to determine the pre-petition arrears. Debtors also state they anticipate being able to cure the arrearage through their Chapter 13 plan.

## **DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$144,314.00 (including \$144,314.00 secured by Movant's first deed of trust), as stated in the David C. Meyers Declaration and Schedule D. The value of the Property is determined to be \$167,100.00, as stated in Schedules A and D.

### **[11 U.S.C. § 362(d)(1): Deny Relief Because of Equity Cushion]**

The existence of defaults in post-petition or pre-petition payments by itself does not guarantee Movant obtaining relief from the automatic stay. A senior lienor is entitled to full satisfaction of its claim before any subordinate lienor may receive payment on its claim. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][d][i] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Therefore, a senior lienor may have an adequate equity cushion in the property for its claim, even though the total amount of liens may exceed a property's equity. *Id.* In this case, the equity cushion in the Property for Movant's claim provides adequate protection for such claim at this time. *In re Avila*, 311 B.R. 81, 84 (Bankr. N.D. Cal. 2004). Movant has not sufficiently established an evidentiary basis for granting relief from the automatic stay for "cause" pursuant to 11 U.S.C. § 362(d)(1).

The court shall issue an order denying Movant's Motion for Relief from Stay. No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by David C. Meyers ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Movant's Motion for Relief From Stay is denied.

No other or additional relief is granted.

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3. [18-27253](#)-C-13      VYACHESLAV/IRYNA  
[JHW-1](#)                      NESTERCHUK  
                                    Robert Fong

**MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
12-20-18 [22]**

**CAB WEST, LLC VS.  
DEBTORS DISMISSED:  
01/03/2019**

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**Final Ruling:** No appearance at the January 29, 2019 hearing is required.  
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Cab West, LLC (“Movant”) having filed a Notice of Withdrawal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion for Relief From Automatic Stay was dismissed without prejudice, and the matter is removed from the calendar.**

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**FORD MOTOR CREDIT COMPANY,  
LLC VS.**

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**Final Ruling:** No appearance at the January 29, 2019 hearing is required.

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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors’ Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 20, 2018. 28 days’ notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties’ pleadings.

**The Motion for Relief from the Automatic Stay is denied without prejudice as moot, the automatic stay having been terminated by dismissal of this bankruptcy case.**

Ford Motor Credit Company (“Movant”) seeks relief from the automatic stay with respect to Robert Decelle and Donna Decelle’s (“Debtors”) 2013 Ford F150 (“Vehicle”). Movant has provided the Declaration of Kristina M. Mowers to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The instant case was dismissed on January 16, 2019, for delinquent payments. Dckt. 124.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of

this section continues until such **property is no longer property of the estate**;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) *the time the case is dismissed*; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) *reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.*

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of January 16, 2019, the automatic stay as it applies to the Vehicle, and as it applies to Debtor, was terminated by operation of law. At that time, the Vehicle ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Vehicle on January 16, 2019.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Ford Motor Credit Company (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied without prejudice as moot, this bankruptcy case having been dismissed on January 16, 2019 (prior to the hearing on this Motion). The court, by this Order, confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were terminated as to Robert Decelle and Donna Decelle (“Debtors”) pursuant to 11 U.S.C. § 362(c)(2)(B) and the 2013 Ford F150 (“Vehicle”), pursuant to 11 U.S.C. § 362(c)(1) and § 349(b)(3) as of the January 16, 2019 dismissal of this bankruptcy case.

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**DITECH FINANCIAL, LLC VS.**

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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 21, 2018. By the court’s calculation, **xx** days’ notice was provided. 28 days’ notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is granted.**

Ditech Financial LLC (“Movant”) seeks relief from the automatic stay with respect to Sherilyn Laughlin’s (“Debtor”) real property commonly known as 15986 Wellington Way, Truckee, California (“Property”). Movant has provided the Declaration of Celinda Simpson to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Celinda Simpson Declaration states that there are 3 post-petition defaults in the payments on the obligation secured by the Property, with a total of \$4,750.27 in post-petition payments past due.

**CHAPTER 13 TRUSTEE’S RESPONSE**

The Chapter 13 Trustee filed a Response on January 14, 2019 stating that the Trustee does not oppose the relief requested but that the Plan provides for the Movant to be paid directly as Class 4 and relief may not be needed where the confirmed Plan provides relief. Dckt. 71.

**DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$544,545.05 (including \$287,126.05 secured by Movant’s deed of trust), as stated in the Celinda Simpson Declaration and Schedule D. The value of the Property is determined to be \$408,200.00, as stated in Schedules A and D.

**[11 U.S.C. § 362(d)(1): Grant Relief for Cause]**

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Ditech Financial LLC (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Ditech Financial LLC its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 15986 Wellington Way, Truckee, California, (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

No other or additional relief is granted.

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**WELLS FARGO BANK, N.A. VS.**

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**No Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on November 5, 2018. 28 days’ notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is ~~XXXXX~~.**

Wells Fargo Bank, N.A. (“Movant”) seeks relief from the automatic stay with respect to Timothy Patrick Janovich’s (“Debtor”) real property commonly known as 703 Main Street, Roseville, California (“Property”). Movant has provided the Declaration of Rachel Mdarcella Cathcart Love to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Rachel Mdarcella Cathcart Love Declaration states that there are four post-petition defaults in the payments on the obligation secured by the Property, with a total of \$5,591.12 in post-petition payments past due. The Declaration also provides evidence that there are no pre-petition payments in default.

**DEBTOR’S OPPOSITION:**

Debtor filed an Opposition on November 20, 2018. Dckt. 47. Debtor asserts that he filed this Chapter 13 bankruptcy proceeding to prevent the foreclosure on the subject Property. Debtor asserts that the alleged non-payments were paid through his Chapter 11 bankruptcy; however, the Movant refused tender of the payments from the Chapter 11 administrator. This bankruptcy proceeding was filed as an attempt to pay the alleged arrears to this lender which may have accumulated between the date of confirmation of the Chapter 11 Plan and the date of the filing of this Chapter 13 case. Dckt. 48, Janovich Declaration.

## TRUSTEE'S RESPONSE:

The Trustee responds that he does not oppose the Motion. The Trustee flags for the court that the Movant is included in Debtor's proposed Plan as both a Class 2A creditor with regard to the mortgage arrears and as a Class 4 creditor regarding the first mortgage. The Trustee further notes that the Debtor has not filed a Motion to Confirm the Plan and was notified in September that an Amended Plan would be filed, but to date has not been filed. Dckt. 45.

## DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$126,934.02 as stated in the Rachel Mdarcella Cathcart Love Declaration and Schedule D. The value of the Property is determined to be \$304,952.00, as stated in Schedules A and D.

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court requires additional testimony from the parties in order to determine whether cause exists for terminating the automatic stay, as a result of purported defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432. At the December 4, 2018 hearing, the parties agreed to continue the hearing.

~~At the hearing -----.~~

~~The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.~~

~~————— No other or additional relief is granted by the court.~~

~~The court shall issue an order substantially in the following form holding that:~~

~~————— Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.~~

~~The Motion for Relief from the Automatic Stay filed by Wells Fargo Bank, N.A. (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing;~~

~~**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Wells Fargo Bank, N.A., its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 703 Main Street, Roseville, California, (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.~~

~~No other or additional relief is granted.~~

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DAVID MERCURIO, VS.

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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on November 2, 2018. 28 days’ notice is required. That requirement was met

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is denied.**

David Mercurio (“Movant”) seeks relief from the automatic stay with respect to Frank Davis’s (“Debtor”) real property commonly known as 3908 Washington Avenue, Sacramento, California (“Property”). Movant has provided the Declarations of David Mercurio to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The David Mercurio Declaration states that this is Debtor second bankruptcy proceeding since July 2015. In the first bankruptcy proceeding (Case No. 15-25641) the Plan was confirmed with the condition that Debtor would sell or obtain a refinancing agreement withing 18 months. Debtor did not do so and the case was converted to a Chapter 7 on February 28, 2018. On July 6, 2017, the court granted a motion to reconvert to a Chapter 13 case. The Amended Plan in the prior case was not confirmed and on February 28, 2018, the prior case was dismissed upon request of the Debtor.

Debtor filed the current bankruptcy proceeding on August 17, 2018, on the same date as the scheduled foreclosure sale. Pending in Debtors current case is a Motion to Confirm Plan, which Movant opposes based on feasibly concerns and a failure to address delinquent real property taxes.

**CHAPTER 13 TRUSTEE’S RESPONSE:**

The Chapter 13 Trustee responds to the Motion by noting that Movant is included in Debtor's proposed Plan as a Class 2A creditor. The proposed Plan provides for monthly payments of \$1,270.00 to Movant with a 7% interest rate until the property is sold on or before March 25, 2019, where the creditor will be paid in full from the proceeds of the sale.

The Movant has filed an opposition to the confirmation of the proposed Plan, set for hearing on December 4, 2018. The Trustee filed a non-opposition to the Debtor's Motion to Confirm and notes that Debtor is current under the proposed Plan payments.

### **DEBTOR'S OPPOSITION:**

Debtor's counsel responds by stating that Debtor's Motion to Confirm is set for hearing on December 4, 2018 and provides for full payment of Movant's claim. The court has approved Debtor's employment of a Real Estate professional to sell the home and the Debtor has signed an MLS Agreement and has the Property listed for immediate sale. The sale will provide for Movant's claim and all real property taxes. The Property is insured through October 11, 2019 by Averwood Insurance Services, Inc. Debtor is current on proposed Chapter 13 Plan payments. Additionally, the Debtor states that the value of the home is \$215,000.00 and the Movant's secured claim is approximately \$80,051.61. Dckt. 84.

### **DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$80,051.61, as stated in the David Mercurio Declaration and Schedule D. The value of the Property is determined to be \$215,000.00, as stated in Schedules A and D.

The existence of defaults in post-petition or pre-petition payments by itself does not guarantee Movant obtaining relief from the automatic stay. A senior lienor is entitled to full satisfaction of its claim before any subordinate lienor may receive payment on its claim. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][d][i] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Therefore, a senior lienor may have an adequate equity cushion in the property for its claim, even though the total amount of liens may exceed a property's equity. *Id.* In this case, the equity cushion in the Property for Movant's claim provides adequate protection for such claim at this time. *In re Avila*, 311 B.R. 81, 84 (Bankr. N.D. Cal. 2004). Movant has not sufficiently established an evidentiary basis for granting relief from the automatic stay for "cause" pursuant to 11 U.S.C. § 362(d)(1).

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective rehabilitation. 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375-76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). Based upon the evidence submitted, the court determines that there is equity in the Property for either Debtor or the Estate. 11 U.S.C. § 362(d)(2).

At the December 4, 2018 hearing, the court continued the hearing to allow Debtor to proceed with the confirmed plan. The court notes that Debtor's Plan was confirmed on December 21, 2018. Dckt. 95. Additionally, Debtor has a pending motion to sell the Property set for January 29, 2019 at 2:00 p.m. Dckt. 96.

At the hearing -----.

The court shall issue an order denying to Motion to terminate the automatic stay.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by David Mercurio (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion for Relief from the automatic stay provisions of 11 U.S.C. § 362(a) is denied.

No other or additional relief is granted.

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**WELLS FARGO BANK, N.A., VS.**

**Thru #9**

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**No Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and United States Trustee on November 7, 2018. 28 days’ notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is ~~XXXX~~.**

Wells Fargo Bank, N.A. (“Movant”) seeks relief from the automatic stay with respect to Betty Walker’s (“Debtor”) real property commonly known as 2660 Marshfield Road, Vallejo, California (“Property”). Movant has provided the Declaration of Joselle Bracy to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Joselle Bracy Declaration states that there are five post-petition defaults in the payments on the obligation secured by the Property, with a total of \$2,208.25 in post-petition payments past due. The Declaration also provides evidence that there are ten pre-petition payments in default, with a pre-petition arrearage of \$5,145.27.

**CHAPTER 13 RESPONSE:**

The Chapter 13 Trustee responds that does not yet have a confirmed Plan. The Debtor is paid ahead \$3,514.92 under the terms of the proposed plan filed on November 10, 2018. Dckt. 67. The Debtor has paid a total of \$25,414.92 into the plan. The Trustee has not made distribution to the Movant because under the terms of the original plan Movant’s debt was omitted. The Debtor has a pending amended plan.

## DEBTOR'S OPPOSITION

Debtor filed an Opposition on November 27, 2018. Dckt. 73. Debtor asserts that the pending amended Plan set for confirmation hearing on January 15, 2018 provides for Movant's second note and deed of trust on the Property as a Class 1 claim, with ongoing monthly mortgage payments, in the amount of \$441.65, to be paid through the Trustee commencing in January 2019. The amended plan provides for the \$5,145.27 pre-petition mortgage arrears and the post-petition mortgage arrears in the amount of \$3,092.00 to be paid with the proceeds of the sale of debtor's property located at 747 Tuolumne Street, Vallejo, California. Debtor has already obtained court approval to employ realtor Gerri Kalk and the property is listed and being actively marketed. Debtor anticipates that a sale will occur within a year and will facilitate a 100% payment for all allowed claims.

## DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$514,926.84 (including \$425,056.00 secured by Movant's first deed of trust and \$89,870.84 secured by Movant's second deed of trust ), as stated in the Joselle Bracy Declaration and Schedule D. The value of the Property is determined to be \$600,000.00, as stated in Schedules A and D.

The existence of defaults in post-petition or pre-petition payments by itself does not guarantee Movant obtaining relief from the automatic stay. A senior lienor is entitled to full satisfaction of its claim before any subordinate lienor may receive payment on its claim. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][d][i] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Therefore, a senior lienor may have an adequate equity cushion in the property for its claim, even though the total amount of liens may exceed a property's equity. *Id.* In this case, the equity cushion in the Property for Movant's claim provides adequate protection for such claim at this time. *In re Avila*, 311 B.R. 81, 84 (Bankr. N.D. Cal. 2004). Movant has not sufficiently established an evidentiary basis for granting relief from the automatic stay for "cause" pursuant to 11 U.S.C. § 362(d)(1).

## RULING:

Here, the Debtor has proposes a Plan to fully pay Movant and anticipates doing with through the sale of another real property asset that is actively being marketed. The proposed Plan is set for hearing on February 12, 2019, as such the court determines it is prudent to defer ruling on the Movant's requested relief until the court has considered whether the proposed Plan should be confirmed.

**At the hearing ----.**

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Wells Fargo Bank, N.A. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Wells Fargo Bank, N.A. Motion for Relief From Automatic Stay is **xxxx**.

No other or additional relief is granted.

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**UMPQUA BANK VS.**

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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

**Below is the court’s tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 20, 2018. 14 days’ notice is required. That requirement was met.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

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**The Motion for Relief from the Automatic Stay is denied.**

Umpqua Bank (“Movant”) seeks relief from the automatic stay with respect to Betty Walker’s (“Debtor”) real property commonly known as 747 Tuolumne Street, California (“Property”). Movant has provided the Declaration of Debbie Fish to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Debbie Fish Declaration states that there are 5 post-petition defaults in the payments on the obligation secured by the Property, with a total of \$5,423.05 in post-petition payments past due. The Declaration also provides evidence that there are 2 pre-petition payments in default, with a pre-petition arrearage of \$2,738.63. Movant also asserts that the loan matured on October 1, 2018.

**DISCUSSION**

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total

debt secured by this property is determined to be \$141,766.84 (including \$131,766.84 secured by Movant's first deed of trust and \$10,000.00 secured by the Solano County Tax Collector), as stated in the Debbie Fish Declaration and Schedule D. The value of the Property is determined to be \$380,000.00, as stated in Schedules A and D. Accordingly, there is equity in excess of \$230,000.00.

### **11 U.S.C. § 362(d)(1): Deny Relief Because of Equity Cushion**

The existence of defaults in post-petition or pre-petition payments by itself does not guarantee Movant obtaining relief from the automatic stay. A senior lienor is entitled to full satisfaction of its claim before any subordinate lienor may receive payment on its claim. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][d][i] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Therefore, a senior lienor may have an adequate equity cushion in the property for its claim, even though the total amount of liens may exceed a property's equity. *Id.* In this case, the equity cushion in the Property for Movant's claim provides adequate protection for such claim at this time. *In re Avila*, 311 B.R. 81, 84 (Bankr. N.D. Cal. 2004). Movant has not sufficiently established an evidentiary basis for granting relief from the automatic stay for "cause" pursuant to 11 U.S.C. § 362(d)(1).

### **Co-Debtor Stay**

Additionally, Movant requests relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant identifies Brenda Calhoun as the original borrower on the loan. The Movant does not expressly state why they have a basis to pursue collection against Brenda Calhoun. In reviewing the Exhibits filed in support of the motion, a document titled "Assumption Agreement" is included that appears indicate that Brenda Calhoun transferred the property to Betty Walker, with the consent of Circle Bank on May 25, 2010. Dckt. 85, page 5. In the Assumption Agreement, one of the terms releases the transferor from any liability.

### **Request for Attorneys' Fees**

In the Motion, almost as if an afterthought, Movant requests that it be allowed attorneys' fees. The Motion does not allege any contractual or statutory grounds for such fees. No dollar amount is requested for such fees. No evidence is provided of Movant having incurred any attorneys' fees or having any obligation to pay attorneys' fees. Based on the pleadings, the court would either: (1) have to award attorneys' fees based on grounds made out of whole cloth, or (2) research all of the documents and California statutes and draft for Movant grounds for attorneys' fees, and then make up a number for the amount of such fees out of whole cloth. The court is not inclined to do either.

If grounds had been shown and evidence provided, the court could have easily made such determination and granted fees (assuming there is a contractual or statutory basis). If an amount of such fees had been included in the motion and prayer, the court and all parties in interest would fairly have been put on notice of the upper limit of such amounts, and the court could have taken the non-opposition and non-response as defaults.

While the court could consider the award of attorneys' fees as a post-judgment motion (Federal Rule of Civil Procedure 52(b) and Federal Rule of Bankruptcy Procedure 7052, 9014), the otherwise unnecessary cost and expense of Movant having to file a motion for an award of attorneys' fees for the unopposed Motion in which it made reference to wanting attorneys' fees would well exceed any attorneys' fees that the court would award for a motion such as this. Movant's strategic decision not to provide the court with grounds for and evidence of attorneys' fees has rendered it useless to proceed with a post-judgment motion that would cost more in unawarded (as in unnecessary and unreasonable fees) attorneys'

fees.

The court notes that in the Declaration of Debbie Fish, in describing the total amount due on the loan lists \$1,220.00 in attorneys fees. It is not clear to the court whether these are the fees Movant is seeking approval of, despite including the amount due, or if the notation represents something else. Dckt. 83, ¶ 12.

### **Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Umpqua Bank (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Movant’s request for relief from the automatic stay provisions of 11 U.S.C. § 362(a) are denied.

No other or additional relief is granted.

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WELLS FARGO BANK, N.A. VS.

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**No Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

**Insufficient Notice Provided.** The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on January 8, 2019. **By the court's calculation, 21 days' notice was provided. 28 days' notice is required.**

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is ~~XXXXX~~.**

Wells Fargo Bank ("Movant") seeks relief from the automatic stay with respect to Wendi White's ("Debtor") real property commonly known as 1730 Baines Avenue, Sacramento, California ("Property"). Movant has provided the Declaration of Sasha Anderson to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The Sasha Anderson's Declaration states that there are 3 post-petition defaults in the payments on the obligation secured by the Property, with a total of \$8,469.87 in post-petition payments past due. The Declaration also provides evidence that there are no pre-petition payments in default.

#### CHAPTER 13 TRUSTEE'S RESPONSE

The Chapter 13 Trustee responds that Debtor is delinquent \$7,224.21 under the confirmed plan. Debtor has paid a total of \$159,310.00 to date. Dckt. 171.

#### DEBTOR'S RESPONSE:

Debtor's counsel responds, but not waiving the defective service for a Local Rule 9014-1(f)(1) motion, that Debtor is delinquent under the confirmed plan but is current under the proposed plan set for hearing on February 12, 2019. Dckt. 176.

## DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the total debt secured by this property is determined to be \$338,908.47 (including \$338,008.47 secured by Movant's first deed of trust), as stated in the Sasha Anderson's Declaration and Schedule D. The value of the Property is determined to be \$386,400.00, as stated in Schedules A and D.

### [11 U.S.C. § 362(d)(1): Deny Relief Because of Equity Cushion]

The existence of defaults in post-petition or pre-petition payments by itself does not guarantee Movant obtaining relief from the automatic stay. A senior lienor is entitled to full satisfaction of its claim before any subordinate lienor may receive payment on its claim. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][d][i] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.). Therefore, a senior lienor may have an adequate equity cushion in the property for its claim, even though the total amount of liens may exceed a property's equity. *Id.* In this case, the equity cushion in the Property for Movant's claim provides adequate protection for such claim at this time. *In re Avila*, 311 B.R. 81, 84 (Bankr. N.D. Cal. 2004). Movant has not sufficiently established an evidentiary basis for granting relief from the automatic stay for "cause" pursuant to 11 U.S.C. § 362(d)(1).

The court shall issue an order denying Movant's request for Relief From the Stay. No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Wells Fargo Bank ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Wells Fargo Bank Motion for Relief From Stay is denied.

No other or additional relief is granted.

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