

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

May 20, 2014 at 9:31 A.M.

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1. [14-23103](#)-B-7 ELYSIA LONG MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY
5-5-14 [[9](#)]
WELLS FARGO BANK, N.A. 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.

2. [14-24003](#)-B-7 KRISTINE JONES MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY
5-5-14 [[9](#)]
WELLS FARGO BANK, N.A. VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Because the debtor has filed a statement of intention to surrender the Collateral (as that term is defined herein) the court issues the following tentative ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 2012 Chevrolet Malibu (VIN 1G1ZB5E00CF247620) (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 movant alleges without dispute that the debtor has failed to make two payments on the obligation secured by the Collateral. The movant alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtor has filed a statement of intention to surrender the Collateral. The movant alleges without dispute that the Collateral is in the movant's possession.

The court will issue a minute order.

3. [14-21219](#)-B-7 JERANIQUA MARTIN
APN-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-11-14 [[19](#)]

JERANIQUA MARTIN VS.

Tentative Ruling: This motion is unopposed. In this instance, because the debtor is pro se the court issues the following abbreviated tentative ruling.

The motion is dismissed as moot. The automatic stay terminated as to the subject vehicle, a leased 2013 Kia Optima (VIN 5XXGm4A73DG218055) (the "Vehicle") at 12:01 a.m. on April 12, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtor's possessory interest in the Vehicle has from that date has no longer been property of the estate.

The debtor's petition was filed under chapter 7 on February 10, 2014. Pursuant to the applicable terms of 11 U.S.C. § 365(d)(1), the trustee may assume or reject an unexpired lease of personal property of the debtor within sixty (60) days after the order for relief. In this case, as of April 11, 2014, sixty days after the filing of the debtor's petition, the chapter 7 trustee had not assumed or rejected the lease of the Vehicle. Pursuant to 11 U.S.C. § 365(p)(1), where a lease of personal property is rejected or not timely assumed by the trustee under section 362(d), the debtors' interest in the leased property is no longer property of the estate and the automatic stay under section 362(a) is automatically terminated. Thus, the automatic stay terminated with respect to the Vehicle at 12:01 a.m. on April 12, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtor's possessory interest in the Vehicle has from that date no longer been property of the estate. The movant already has the relief it seeks by this motion.

The court will issue a minute order.

4. [14-23122](#)-B-7 JENNY WOOD
BHT-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-2-14 [[14](#)]

PROVIDENT FUNDING
ASSOCIATES, L.P. 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.

5. [14-21034](#)-B-7 RICHARD FECTEAU MOTION FOR RELIEF FROM
TJS-1 AUTOMATIC STAY
4-29-14 [[38](#)]
PENNYMAC HOLDINGS, LLC 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.

6. [14-22637](#)-B-7 MICHAEL/NORMA LUNA MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
4-18-14 [[10](#)]
AMERICREDIT FINANCIAL
SERVICES, INC. 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 against the estate and the debtors pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 2005 Infiniti QX56 (5N3AA08AX5N810196) (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 movant alleges without dispute that the debtors have failed to make two (2) payments on the obligation secured by the Collateral. The movant alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtors have filed a statement of intention to surrender the Collateral. The trustee has filed a report of no distribution.

The court will issue a minute order.

7. [13-20645](#)-B-7 ROBERT/TRISTINA KITAY MOTION TO MODIFY THE STAY TO
DEG-1 PERMIT STATE COURT ACTION TO
PROCEED AGAINST DEBTOR WITH
INSURER ONLY TO BE LIABLE
4-9-14 [[111](#)]

Tentative Ruling: Because the movant's notice of hearing does not state whether written opposition to the motion is required, the court treats the motion as one filed 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.

8. [14-20665](#)-B-7 GREGORY MIERLOT AND MOTION FOR RELIEF FROM
CJO-1 SHARON REINERT AUTOMATIC STAY
5-2-14 [[15](#)]
GREEN TREE SERVICING LLC VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance, because the debtors have filed a statement of intention to surrender the Property (as that term is defined herein), the court issues the following tentative 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 May 7, 2014, 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 294 Pineleaf Drive, Meadow Valley, California (APN 1133-081-028-000) ("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 waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make nine (9) 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 debtors have filed a statement of intention to surrender the Property. The trustee has filed a report of no distribution.

The court will issue a minute order.

9. [14-23372](#)-B-7 JUANA LUCIO MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
4-16-14 [[16](#)]
CENTRAL MORTGAGE COMPANY VS.

Tentative Ruling: This motion is unopposed. In this instance, because the debtor is pro se, the court issues the following tentative 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 obtain possession of the real property located at 847 E. Augusta Street, Woodbridge, California (APN 015-410-07) (the "Property"), all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Cause for modification of the automatic stay exists because movant acquired title to the Property at a pre-petition foreclosure sale and neither the estate nor the debtor presently has any interest in the Property, other than a bare possessory interest.

The court will issue a minute order.

10. [14-21377](#)-B-7 JEFFREY/GAIL LOERLEIN MOTION FOR RELIEF FROM
MJ-1 AUTOMATIC STAY
4-8-14 [[14](#)]
BANK OF AMERICA, 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 debtors 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 20 Karen Court, Sequim, Washington (APN 033018880150) (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. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seven (7) 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 chapter 7 trustee has filed a report of no distribution.

The court will issue a minute order.

11. [14-22682](#)-B-7 SHANE/MELANIE BRITT MOTION FOR RELIEF FROM
JT-1 AUTOMATIC STAY
5-2-14 [[25](#)]
JOHN TAHK 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.

12. [14-21288](#)-B-7 JOHNNY WATTS
SW-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-30-14 [[13](#)]

A-L FINANCIAL CORPORATION
VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance the court issues the following tentative ruling.

The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral, a 2005 Dodge Magnum (VIN 2D4FV48T95H531642) (the "Collateral"), at 12:01 a.m. on April 24, 2014, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

There is no evidence that the debtor performed his stated intention (reaffirm) with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2)(B).

The court will issue a minute order.