

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

July 1, 2014 at 9:31 A.M.

1. [14-23103](#)-B-7 ELYSIA LONG
PPR-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-23-14 [[19](#)]

BANK OF AMERICA, N.A. VS.

Tentative Ruling: The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral consisting of a 2006 Malibu Iride boat (VIN MB2D5341B606) (the "Boat"), at 12:01 a.m. on May 30, 2014, by operation of 11 U.S.C. § 362(h), and the Boat has from that date no longer been property of the estate. The automatic stay terminated as to the movant's collateral consisting of a 2006 Extreme Iride trailer (VIN 5DBBB23276R000095) (the "Trailer") at 12:01 a.m. on April 29, 2014 and the Trailer has from that date no longer been property of the estate.

With respect to the Boat, there is no evidence that the debtor performed her stated intention (surrender) with respect to the Boat within the time allowed by 11 U.S.C. § 521(a) (2) (B).

With respect to the Trailer, the debtor did not file a compliant statement of intention with respect to the Trailer within the time allowed by 11 U.S.C. § 521(a) (2).

The court will issue a minute order.

2. [13-20645](#)-B-7 ROBERT/TRISTINA KITAY
DEG-1

AMENDED MOTION TO RECONSIDER
5-29-14 [[129](#)]

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

The motion is granted. The order entered May 29, 2014 (Dkt. 124) (the "Order") denying without prejudice the movant's motion for relief from the automatic stay filed under docket control number DEG-1 (the "Motion") is vacated. The Motion is re-set for hearing on July 29, 2014, at 9:31 a.m. and shall be heard under Local Bankruptcy Rule 9014-1(f) (2). No written opposition to the motion is required. Opposition, if any, to the Motion may be presented orally at the hearing. The movant shall file and serve a notice of the continued hearing on all parties previously served with the Motion on or before July 15, 2014. The movant shall file proof

of service of the notice of the continued hearing within three court days thereafter. Except as so ordered, the motion is denied.

In the absence of opposition from any party in interest, the court finds that the movant has demonstrated excusable neglect pursuant to Fed. R. Civ. P. 60(b)(1) sufficient to justify vacatur of the Order. "The defendant's or counsel's physical or mental illness is a common ground for finding conduct non-culpable" when considering a Rule 60(b)(1) motion. TCI Grp. Life Ins. Plan v. Knoebber, 244 F.3d 691, 696 (9th Cir.2001), overruled on other grounds by Egelhoff v. Egelhoff ex rel. Breiner, 532 U.S. 141, 147-50, 121 S.Ct. 1322, 149 L.Ed.2d 264 (2001)(citing Leshore v. County of Worcester, 945 F.2d 471 (1st Cir.1991); Vac-Air, Inc. v. John Mohr & Sons, Inc., 471 F.2d 231 (7th Cir.1973); Rooks v. American Brass Co., 263 F.2d 166 (6th Cir.1959)).

The court will issue a minute order.

3. [14-24784](#)-B-7 DELEANA SEYMOUR
APN-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-23-14 [[9](#)]

SANTANDER CONSUMER USA, INC.
VS.

Tentative Ruling: The motion is dismissed as moot. The automatic stay terminated as to the movant's collateral consisting of a 2010 Ford Fusion (VIN 3FAHP0HA2AR104198)(the "Collateral"), at 12:01 a.m. on June 6, 2014, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

The debtor did not file a compliant statement of intention with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2).

The court will issue a minute order.