

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

July 29, 2014 at 1:30 p.m.

1. [14-26103](#)-E-13 DEMETRIE DOIRON MOTION FOR RELIEF FROM
RDN-1 Pro Se AUTOMATIC STAY
7-1-14 [[17](#)]
U.S. BANK TRUST, N.A. VS.
CASE DISMISSED 7/8/14

Final Ruling: No appearance at the July 29, 2014 hearing is required.

The case having previously been dismissed, the Motion is denied.
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The Motion seeks relief from the automatic stay, both prospectively and for the annulment of the stay as to a June 10, 2014 hearing which Movant proceeded with in state court. In seeking this relief Movant says that it was notified at the June 10, 2014 state court hearing of the June 9, 2014. Movant further alleges that since Debtor did not present copies of the bankruptcy petition or filing, it proceeded with the June 10, 2014 hearing.

No Points and Authorities are provided by Movant as to the relevant law or proper basis for annulling the automatic stay. Additionally, Movant fails to allege what it did when notified at the June 10, 2014 hearing that a bankruptcy case was filed on June 9, 2014. There are no allegations that Movant had its attorneys check on Pacer for the filing, request the specific case information from the Debtor, or taking any action to avoid violating the automatic stay.

Movant has filed the Declaration of Randall Naiman, Movant's attorney in this bankruptcy case as the only testimony in support of the Motion. Declaration, Dckt. 19. Mr. Naiman testifies under penalty of perjury and based on his personal knowledge (Fed. R. Evid. 601, 602),

- A. On March 20, 2014, Movant purchased real property commonly known as 6541 Greenback Lane, Unit 3, Citrus Heights, California. (No testimony is provided as to how Mr. Naiman, bankruptcy counsel for Movant, has personal knowledge of this purchase.)
- B. On June 9, 2014, Debtor commenced the Chapter 13 bankruptcy case.
- C. On June 10, 2014, at a state court hearing, Mr. Naiman was notified that Debtor filed bankruptcy on June 9, 2014.

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- D. Though Debtor provided oral notification of the bankruptcy filing.
- E. Because Mr. Naiman was not presented with "proper paperwork," Movant proceeded with a summary judgment hearing on June 10, 2014, against the Debtor.

The conclusion that Mr. Naiman draws is that since he deemed that "proper paperwork" had not been provided, Movant properly proceeded with the state court proceedings, notwithstanding the June 9, 2014. Further, because there was not "proper paperwork," the automatic stay should be annulled to allow Movant to obtain all benefits of the June 10, 2014 state court hearing.

Conspicuously absent from the Declaration is what Mr. Naiman did once he had actual knowledge that the Debtor was asserting he filed bankruptcy - and thereby an automatic stay immediately went into effect on June 9, 2014. Mr. Naiman does not testify that he called the bankruptcy court to inquire if a bankruptcy case was pending for Debtor. Mr. Naiman does not testify that he called his office to have an associate or staff use Pacer to check for the filing of a bankruptcy case by Debtor. Mr. Naiman does not testify that he notified the state court judge of the Debtor's contention to afford the state court judge or judge's staff the opportunity to confirm from this court whether a bankruptcy case was pending and any order issued by that court being rendered void by operation of federal law. Mr. Naiman does not testify that he used his smart phone, table, or laptop to access Pacer and check whether a bankruptcy case was filed by Debtor.

Rather, Movant chose to ignore the information it was provided and proceed to obtain an order in a state court proceeding. Then, after obtaining the order and at some point be satisfied that "proper paperwork" to Movant, then Movant seeks to request that the stay be annulled - without providing the court with any legal authorities or basis. Quite possibly the reason no authorities are provided is that Movant knows that no such authorities exist in this situation.

The Motion is denied.

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 Automatic Stay having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied.

2. [14-26368](#)-E-13 JAMES HAYES
JMA-6 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-11-14 [[18](#)]

COLFIN AH-CALIFORNIA 7, LLC
VS.

Final Ruling: Pursuant to the Order Setting Briefing Schedule and Final Hearing on Motion for Relief, Dckt. 37, the hearing on this matter is continued to **1:30 p.m.** on **August 19, 2014**. No appearance required at the July 29, 2014 hearing.