

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
510 19th Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** AUGUST 7, 2019  
**CALENDAR:** 9:45 A.M. CHAPTER 7 CASES

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [19-12211](#)-A-7     **IN RE: ANGEL CABRERA**  
[CAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-19-2019   [\[19\]](#)

FINANCIAL SERVICES VEHICLE  
TRUST/MV  
NEIL SCHWARTZ  
CHERYL SKIGIN/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** leased 2018 BMW X6 vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value *after* the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2012) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)).

The debtor is obligated to make monthly payments to the moving party pursuant to a lease agreement by which the debtor leases the vehicle described above. The debtor has defaulted under such lease agreement with the moving party. The moving party's interest in the vehicle is not being adequately protected due to the debtor's default.

Therefore, cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Financial Services Vehicle Trust's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2018 BMW X6 vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a) (3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

2. [19-12211](#)-A-7     **IN RE: ANGEL CABRERA**  
[CAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-18-2019    [[13](#)]

BMW BANK OF NORTH AMERICA/MV  
NEIL SCHWARTZ  
CHERYL SKIGIN/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2018 BMW 2 Series M240i vehicle (in the bankruptcy schedules and statements the vehicle is identified as a 2017 BMW)

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

*TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

In this case, the aggregate amount due all liens (\$65,992) exceeds the value of the collateral (\$38,161) and the debtor has no equity in the property. Additionally, the trustee has filed a no asset report and, in the statement of intention, the debtor has indicated an intent to surrender the vehicle.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

BMW Bank of North America's motion for relief from the automatic stay has been presented to the court. Having entered the default of the respondents for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2018 BMW 2 Series M240i vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

3. [18-13217](#)-A-7     **IN RE: JOHN/OLIVIA JILES**  
[JHW-1](#)  
MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-12-2019    [[71](#)]

SANTANDER CONSUMER USA INC./MV  
ROBERT WILLIAMS  
JENNIFER WANG/ATTY. FOR MV.

**Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied as moot

**Order:** Civil minute order

**Subject:** 2012 Ford Fusion vehicle

The moving party seeks relief from the automatic stay. This case, however, is subject to the Bankruptcy Code provisions that terminate or negate the stay in cases involving repeat individual bankruptcy filers. See 11 U.S.C. § 362(c)(3)-(4).

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). In such a case, the automatic stay may be extended only if both notice and the hearing on such motion are "completed before the expiration of" the 30-day period after the filing of the petition in the later case. 11 U.S.C. § 362(c)(3)(B). Otherwise, if notice and the hearing are not completed before the end of the 30-day period, "the automatic stay terminates in its entirety 30 days after the petition date for a repeat filer." *In re Reswick*, 446 B.R. 362, 365, 371-73 (B.A.P. 9th Cir. 2011).

The debtor has had a previous case pending within the one-year period prior to the filing of this case and such case was dismissed. The petition in this case was filed on August 5, 2018. But no motion to extend the stay has been filed, and the hearing on a motion to extend the stay has not been completed before the expiration of the 30-day period after the petition date. Accordingly, the automatic stay terminated 30 days after the petition date. See 11 U.S.C. § 363(c)(3)(A). The motion will be denied as moot.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Having considered the motion,

IT IS ORDERED that the motion is denied as moot.

4. [18-13245](#)-A-7     **IN RE: RODNEY/VICKI SLATER**  
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-18-2019    [\[89\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION/MV  
PATRICK KAVANAGH  
AUSTIN NAGEL/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied as moot

**Order:** Civil minute order

**Subject:** 2010 Toyota Tundra vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on August 8, 2018 as a chapter 13 proceeding. The case was converted to chapter 7 on May 6, 2019 and a meeting of creditors was first convened on June 7, 2019. Therefore, a statement of intention that refers to the movant's property and debt was due no later than June 5, 2019. The debtor filed a statement of intention on May 15, 2019, indicating an intent to reaffirm the debt secured by the property.

11 U.S.C. § 521(a)(2)(B) requires that a chapter 7 individual debtor, within 30 days after the first date set for the meeting of creditors, perform his or her intention with respect to such property.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor indicated an intent to reaffirm the debt secured by the property, the debtor did not do so timely. And, no motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on July 7, 2019, 30 days after the chapter 7 initial meeting of creditors.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a no asset report on June 8, indicating that the vehicle will not be administered.

Therefore, without this motion being filed, the automatic stay terminated on July 7, 2019.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Toyota Motor Credit Corporation's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or

otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is denied as moot as the automatic stay is no longer in existence.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [19-12646](#)-A-7     **IN RE: GUADALUPE MONCADA AND JOSEFINA DE CAUDILLO**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-2-2019    [[9](#)]

TD AUTO FINANCE LLC/MV  
OSCAR SWINTON  
JENNIFER WANG/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2016 Nissan Sentra vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982).

In this case, the aggregate amount due all liens (\$18,129) exceeds the value of the collateral (\$11,200) and there is no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

TD Auto Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of the respondents for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2016 Nissan Sentra vehicle, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

6. [19-12447](#)-A-7     **IN RE: LYNN DE ROSA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
6-24-2019    [[12](#)]

WILLIAM EDWARDS

**Tentative Ruling**

If the filing fee has not been paid in full by the time of the hearing, the case may be dismissed without further notice or hearing.

7. [16-10469](#)-A-7     **IN RE: JEFFREY BOHN**  
[RWR-6](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
7-19-2019    [\[271\]](#)

JAMES SALVEN/MV  
PETER FEAR  
RUSSELL REYNOLDS/ATTY. FOR MV.

**Tentative Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]  
**Notice:** LBR 9014-1(f)(2); no written opposition required  
**Disposition:** Granted  
**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise

defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows federal taxes of \$22,403 and California state taxes of \$8,717 as administrative expenses under 11 U.S.C. § 503(b)(1)(B).

8. [19-11774](#)-A-7     **IN RE: LUIS/ANA MEDINA**  
[LKW-2](#)

MOTION TO AVOID LIEN OF ONE MAIN FINANCIAL GROUP, LLC  
7-12-2019    [[28](#)]

LUIS MEDINA/MV  
LEONARD WELSH  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Avoid Lien that Impairs Exemption  
**Notice:** LBR 9014-1(f)(2); written opposition filed  
**Disposition:** Denied

**Non-Possessory Non-Purchase Lien Avoided:** \$16,803.05  
**All Other Liens:** None  
**Exemption:** \$6,555  
**Property Subject to Lien:** 2007 GMC Sierra vehicle  
**Value of Property:** \$6,555

The debtors are seeking avoidance of a non-possessory, non-purchase lien against a vehicle, pursuant to 11 U.S.C. § 522(f)(1)(B)(i). The debtors do not claim that the subject vehicle is health aids or implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor. They contend to use the vehicle "for their personal, family, and household use." ECF No. 28; see also ECF No. 31.

The lien holder, One Main Financial Group, LLC, opposes the motion, arguing that vehicles are not covered under section 522(f)(1)(B)(i). The debtors have filed a reply, insisting that the court may broaden the reach of section 522(f)(1)(B)(i) to vehicles.

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an

exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

With respect to non-possessory, non-purchase liens, the provision allowing for the avoidance of such liens includes:

(B) a nonpossessory, nonpurchase-money security interest in any-

(i) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

(ii) implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or

(iii) professionally prescribed health aids for the debtor or a dependent of the debtor.

11 U.S.C. § 522(f)(1)(B)(i)-(iii).

As the debtors do not claim that the vehicle falls within the health aids, implements, professional books, or tools of the trade rubrics, but actually admit that they use the vehicle "for their personal, family, and household use," the motion implicates only subsection 522(f)(1)(B)(i).

Yet, the enumerated items in section 522(f)(1)(B)(i) do not include motor vehicles. Household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry are not vehicles.

In enumerating these items, Congress could have easily inserted motor vehicles, like it did in other parts of section 522. See, e.g., 11 U.S.C. § 522(f)(4)(B)(v). But, it did not do so.

The court rejects the argument "that cases holding that a motor vehicle is not a 'household good' for lien avoidance purposes are wrong" when the vehicle is used primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

Section 522(f)(4)(B)(v) specifically provides that "[t]he term 'household goods' does not include- . . . a . . . motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft." There is no "when not used primarily for personal, family, or household use" qualification to the section 522(f)(4)(B)(v) exclusions.

Further, the court will not expand the definition of household goods to motor vehicles just because courts have deemed guns, bows, arrows, cameras, golf clubs, and bicycles as household goods, even

though those items are not enumerated in section 522(f)(4)(A), the section enumerating what "'household goods' means." The reason those items can be household goods is because they are not enumerated in section 522(f)(4)(B) either - the provision stating what is excluded from the definition of household goods.

On the other hand, once again, motor vehicles are specifically excluded from the definition of household goods in 522(f)(4)(B). See 11 U.S.C. § 522(f)(4)(B)(v).

Next, the inclusion of vehicles by courts to the section 522(f)(1)(B)(ii) tools of the trade exemption does not warrant the inclusion of vehicles to the section 522(f)(1)(B)(i) exemption, especially as the definition of the wild card description closest to vehicles - household goods - specifically excludes vehicles and motor vehicles from the exemption.

Household goods are not enumerated in the tools of the trade exemption under section 522(f)(1)(B)(ii), permitting courts to consider motor vehicles as tools of the trade outside the definition of household goods.

And, in section 522(f)(1)(B)(i), outside of household goods, none of the enumerated items are even close to encompassing vehicles or motor vehicles. Furnishings, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry cannot be construed as vehicles or motor vehicles under any stretch of the respective definitions of those items.

This court will not read motor vehicles into the definition of household goods, given Congress' specific and express exclusion of motor vehicles from such definition. Accordingly, the motion will be denied.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtors' motion to avoid lien has been presented to the court. Having considered the motion, opposition to the motion, and reply to the opposition,

IT IS ORDERED that the motion is denied.

9. [19-11677](#)-A-7     **IN RE: ALFREDO MADRIGAL AND PRISCILA  
BRINGAS-ESTRADA  
[CAS-1](#)**

MOTION FOR RELIEF FROM AUTOMATIC STAY  
6-21-2019    [[15](#)]

EXETER FINANCE, LLC/MV  
R. BELL  
CHERYL SKIGIN/ATTY. FOR MV.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Dismissed as Moot

**Order:** Civil minute order

**Subject:** 2013 Dodge Charger vehicle

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on April 24, 2019 and a meeting of creditors was first convened on June 4, 2019. Therefore, a statement of intention that refers to the movant's property and debt was due no later than May 24, 2019. The debtor has not filed a statement of intention with respect to the vehicle.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, the debtor has not filed a statement of intention with respect to the vehicle. And, no reaffirmation agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on May 24, 2019, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a no asset report on June 6, 2019, indicating no interest in administering the vehicle.

Therefore, without this motion being filed, the automatic stay terminated on May 24, 2019.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Exeter Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is dismissed as moot as the automatic stay is no longer in existence.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

10. [19-12389](#)-A-7    **IN RE: BRANDIE STANLEY AND MAURICE NORVILLE**  
[SMR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
7-9-2019    [\[24\]](#)

1047 ROSAMOND BLVD LP/MV  
SID ROSENBERG/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Stay Relief to Pursue Unlawful Detainer Action and Writ of Possession

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted only to the extent specified in this ruling

**Order:** Civil minute order

**Subject:** Exercise of state law rights and remedies to obtain possession of real property located at 1047 W. Rosamond Blvd. #14 Rosamond, CA, including all actions necessary to pursue an unlawful detainer action and execute a writ of possession

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

Section 362(d)(1) authorizes stay relief for cause. Cause is determined on a case-by-case basis and may include the existence of litigation pending in a non-bankruptcy forum that should properly be pursued. *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1169 (9th Cir. 1990).

Having considered the motion's well-pleaded facts, the court finds cause to grant stay relief subject to the limitations described in this ruling.

The moving party shall have relief from stay to enforce its rights and remedies to obtain possession of the real property described above and to pursue an unlawful detainer action through judgment and execution of a writ of possession if necessary.

The moving party may also file post-judgment motions, and appeals. But no bill of costs may be filed without leave of this court, no attorney's fees shall be sought or awarded, and no action shall be taken to collect or enforce any money judgment against debtor, except by (1) filing a proof of claim in this court or (2) filing an adversary proceeding to determine the debt nondischargeable, and

executing on a favorable judgment entered in such adversary proceeding.

The motion will be granted to the extent specified herein, and the stay of the order provided by Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

1047 Rosamond Blvd LP's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted to the extent specified in this order. The automatic stay is vacated to allow the movant to enforce its rights and remedies against the debtor to obtain possession of real property located at 1047 W. Rosamond Blvd. #14 Rosamond, CA and to pursue an unlawful detainer action through judgment and execution of a writ of possession, if necessary.

IT IS FURTHER ORDERED that the movant may also file post-judgment motions, and appeals. But no bill of costs may be filed without leave of this court, no attorney's fees shall be sought or awarded, and no action shall be taken to collect or enforce any money judgment against debtor, except by (1) filing a proof of claim in this court or (2) filing an adversary proceeding to determine the debt nondischargeable, and executing on a favorable judgment entered in such adversary proceeding. And the stay of the order provided by Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived.