



**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**January 23, 2024 at 1:30 p.m.**

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Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

**Video web address:**

<https://www.zoomgov.com/j/1607167964?pwd=NTFlbW5EVXFYZWYyd3psTkZzY2RxZz09>

**Meeting ID:** 160 716 7964

**Password:** 271490

**Zoom.Gov Telephone:** (669) 254-5252 (Toll Free)

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medicaid credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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**UNITED STATES BANKRUPTCY COURT**

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Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**January 23, 2024 at 1:30 p.m.**

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1. [23-23022](#)-C-13 AMY STRASSBURG MOTION TO VALUE COLLATERAL OF  
[JLK](#)-1 James Keenan ONEMAIN FINANCIAL GROUP, LLC  
11-8-23 [[18](#)]

**Final Ruling:** No appearance at the January 23, 2024 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 76 days' notice was provided. Dkt. 22.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

**The Motion to Value is granted.**

The debtor filed this Motion seeking to value the portion of Onemain Financial Group, LLC's ("Creditor") claim secured by the debtor's property commonly known as 2006 Subaru Impreza (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$5,000.00. Declaration, Dckt. 20.

**DISCUSSION**

Upon review of the record, the court finds the value of the Property is \$5,000.00. Therefore, Creditor's secured claim is determined to be \$5,000.00. 11 U.S.C. § 506(a).

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.

**January 23, 2024 at 1:30 p.m.**

**Page 1 of 7**

The Motion to Value Collateral and Secured Claim filed by the debtor 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Onemain Financial Group, LLC ("Creditor") secured by property commonly known as 2006 Subaru Impreza (the "Property") is determined to be a secured claim in the amount of \$5,000.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

2. [23-23022](#)-C-13 AMY STRASSBURG  
[LGT](#)-1 James Keenan

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
10-25-23 [[14](#)]

**Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 17.

**The Objection to Confirmation of Plan is sustained.**

The Chapter 13 Trustee, Lilian G. Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor has failed to provide her 2022 income tax returns;  
and
2. The plan relies on a motion to value collateral that has  
not yet been heard or decided.

**DISCUSSION**

The plan proposes valuing the secured claim of Onemain Financial. This matter was continued to allow the motion to value to be heard. The court has now granted the motion valuing the secured claim of Onemain Financial above, therefore; this issue has now been resolved.

The debtor has not provided the trustee with all required tax returns. 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

That is reason to deny confirmation. Therefore, the Objection is sustained.

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 Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian G. Tsang, 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 Objection is sustained.

3. [23-21562](#)-C-13 EMILIA/EMIL ARDELEAN AMENDED MOTION TO AVOID LIEN OF  
[TBG](#)-2 Stephan Brown CARMELITITA MANCIA  
12-21-23 [[87](#)]

**Final Ruling:** No appearance at the January 23, 2024 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 93.

**The Motion to Avoid Judicial Lien is granted.**

This Motion requests an order avoiding the judicial lien of Name of Carmelita Mancía ("Creditor") against property of the debtor commonly known as 6035 Glenbrook Lane, Carmichael, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$261,305.88. Exhibit 3, Dkt. POC 13-1. An abstract of judgment was recorded with Sacramento County on May 6, 2022, that encumbers the Property. *Id.*

Pursuant to Debtors' Schedule A, the subject real property has an approximate value of \$970,104.00 as of the petition date. Dkt. 24. The unavoidable and senior liens that total \$375,179.17 as of the commencement of this case are stated on Debtors' Schedule D. Dkt. 57. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$521,625 on Amended Schedule C. Dkt. 85.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided in excess of \$73,299.83 subject to 11 U.S.C. § 349(b)(1)(B).

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors Emilia and Emil Ardelean 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 judgment lien of Carmelita Mancía, California Superior Court for Sacramento County Case No. 34-2017-00209727, recorded on May 6, 2022, Document No. 202205160900, with the Sacramento County Recorder, against

the real property commonly known as 6035 Glenbrook Lane,  
Carmichael, California, is avoided in excess of \$73,299.83  
pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions  
of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

4. [23-22266](#)-C-13 JOHN/SHANNON ALVARADO  
[CAS](#)-1 Mikalah Liviakis

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
12-21-23 [[44](#)]

BMW BANK OF NORTH AMERICA  
VS.

**Final Ruling:** No appearance at the January 23, 2024 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 51.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

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

BMW Bank of North America ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' 2018 BMW X5 xDrive35i Sport Utility 4D (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors are delinquent \$11,201.05 prepetition payments. Declaration, Dkt. 47. Movant also argues cause exists pursuant to 11 U.S.C. § 362(d)(2) because the total debt secured by the Property, \$36,002.75, exceeds the value of the Property, which is \$28,684.00. *Id.*

#### **DISCUSSION**

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors are delinquent \$11,201.05 prepetition payments. The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(2) because the total debt secured by the Property, \$36,002.75, exceeds the value of the Property, which is \$28,684.00.

#### **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 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 BMW Bank of North America ("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 all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as a 2018 BMW X5 xDrive35i Sport Utility 4D ("Property"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.