

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

January 31, 2017 at 1:30 P.M.

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1. [13-27192](#)-C-13 ELLA LINDAUER MOTION FOR RELIEF FROM  
NLL-1 James Brunello AUTOMATIC STAY AND/OR MOTION  
FOR RELIEF FROM CO-DEBTOR STAY  
12-29-16 [[48](#)]  
  
JPMORGAN CHASE BANK, N.A.  
VS.

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**Final Ruling:** No appearance at the January 31, 2017 hearing is required.

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Local Rule 9014-1(f)(1) Motion - No Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on December 29, 2016. Twenty-eight days' notice is required. That requirement was met.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). The defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

**The Motion for Relief From the Automatic Stay is continued to February 28, 2017 at 1:30 p.m.**

JPMorgan Chase Bank, N.A. seeks relief from the automatic stay with respect to the real property commonly known as 1701 51st Street, Sacramento, California. The moving party has provided the Declaration of Misty Rowe to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Rowe Declaration states that the Debtor has not made 14 post-petition payments. From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this property is determined to be \$80,340.14 (including \$80,340.14 secured by movant's first trust deed), as stated in the Rowe Declaration, while the value of the property is determined to be \$245,000, as stated in Schedules A and D filed by Debtor.

**Trustee's Response**

Trustee responds that the debtor is current under the confirmed plan. The Trustee's records reflect 43 mortgage payment having come due and 43 mortgage payment having been paid. The plan was confirmed at

\$596.85 per month for the ongoing mortgage payment to the creditor. The creditor did not object to confirmation. Trustee requests that this be continued to determine whether the debtor maintained property taxes and insurance.

The court will continue this motion.

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 the creditor 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 for Relief from Automatic Stay is continued to February 28, 2017 at 1:30 p.m.

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