

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

February 11, 2025 at 1:30 p.m.

1. [24-21910-E-13](#) TAMMY ANDREWS MOTION FOR RELIEF FROM
[KMM-1](#) Patricia Wilson AUTOMATIC STAY
1-10-25 [\[56\]](#)

CITIBANK, N.A. VS.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient 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 January 10, 2025. By the court’s calculation, 32 days’ notice was provided. 28 days’ notice is required.

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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is XXXXXXX.

Citibank, N.A., not in its individual capacity but solely as Owner Trustee of New Residential Mortgage Loan Trust 2020-RPL1 as serviced by NewRez LLC d/b/a Shellpoint Mortgage Servicing (“Movant”) seeks relief from the automatic stay with respect to Tammy Marie Andrews’ (“Debtor”) real property commonly known as t 230 N 14th Street, Montague, California 96064 (“Property”). Movant has provided the Declaration of Justin Alexander to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 58.

Movant argues Debtor has not made at least approximately three post-petition payments, with a total of \$1,463.77 in post-petition payments past due. Declaration ¶ 7, Docket 58.

DEBTOR'S OPPOSITION

Debtor filed a Declaration in opposition on January 28, 2025. Docket 64. Debtor explains the reason for the post-petition delinquency. Specifically, Debtor states that she spoke with Movant in November to make her post-petition payments to Movant. Resulting from that conversation, there was some miscommunication, and Debtor ended up not making payments for October or November. *Id.* at ¶ 6.

Debtor will be proposing a Modified Plan to address Movant's arrearage and to provide adequate protection. *Id.* at ¶ 9.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$115,747.13 (Declaration ¶ 4, Docket 58), while the value of the Property is determined to be \$81,804.00, as stated in Schedules A/B filed by Debtor. Schedule A/B at 11, Docket 1.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because "cause" is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff'd sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

In this case, Debtor has explained the reason for her delinquency and noted that the post-petition arrearage will be cured going forward.

At the hearing, **XXXXXXX**

The court shall issue an 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 Citibank, N.A., not in its individual capacity but solely as Owner Trustee of New Residential Mortgage Loan Trust 2020-RPL1 as serviced by NewRez LLC d/b/a Shellpoint Mortgage

Servicing (“Movant”) 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 is **XXXXXXX**.

2. [24-20837](#)-E-13 **TERRI AND JOSE PALACIOS** **MOTION FOR RELIEF FROM**
[FW-1](#) **Leo Spanos** **AUTOMATIC STAY**
1-13-25 [[102](#)]

FREEDOM MORTGAGE CORPORATION
VS.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient 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 January 13, 2025. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is denied without prejudice, the automatic stay having been modified by the confirmed Chapter 13 Plan (Plan, ¶ 3.11; Dckt. 49).

Freedom Mortgage Corporation (“Movant”) seeks relief from the automatic stay with respect to Terri Lashai Cook Palacios and Jose Camacho Palacios’ (“Debtor”) real property commonly known as 5273 Cumberland Drive, Roseville, CA 95747 (“Property”). Movant has provided the Declaration of Marie Diaz to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 104.

Movant argues Debtor has not made one post-petition payment for the month of November 2024, so relief should be granted pursuant to 11 U.S.C. § 362(d)(1). Mot. 2:8-10.

CHAPTER 13 TRUSTEE’S NON-OPPOSITION

David Cusick (“the Chapter 13 Trustee”) filed a Non-Opposition on January 28, 2025, stating that where Debtor provides for Movant in Class 4, the evidence appears to show there is a post-petition delinquency and the Motion should be granted. Docket 113.

DISCUSSION

The facts pleaded with particularity (Fed. R. Bankr. P. 9013) in the Motion are that Debtor is merely one monthly payment delinquent. The court just confirmed Debtor’s Chapter 13 Plan on January 29, 2025. Docket 119.

The Confirmed Chapter 13 Plan provides for Creditor’s Claim in Class 4. Plan; Dckt. 49. The Chapter 13 Plan provides that the automatic is modified as follows:

3.11. Bankruptcy stays.

(a) **Upon confirmation of the plan, the automatic stay** of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) **are** (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; **(2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default** under applicable law or contract; and (3) modified to allow the nondebtor party to an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor. . . .

Plan, ¶ 3.11; Dckt. 49.

The Stay having been modified by the Confirmed Chapter 13 Plan, the Motion is denied without prejudice. The court’s order shall state that the stay has been modified by the Confirmed Plan.

At the hearing, **XXXXXXX**

The court shall issue an 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 Freedom Mortgage Corporation (“Movant”) 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 is denied without prejudice, the Stay having been modified by the Confirmed Chapter 13 Plan for Movant’s Class 4 Secured Claim, which states:

3.11. Bankruptcy stays.

(a) **Upon confirmation of the plan, the automatic stay** of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) **are** (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; **(2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default** under applicable law or contract; and (3) modified to allow the nondebtor party to an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor. . . .

Plan, ¶ 3.11; Dckt. 49.

FINAL RULINGS

3. [24-25041-E-13](#)
[KMM-1](#)

RODERICK FRAZIER
Mikalah Liviakis

**MOTION FOR RELIEF FROM
AUTOMATIC STAY**
1-10-25 [18]

GLOBAL LENDING SERVICES LLC
VS.

Final Ruling: No appearance at the February 11, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 January 10, 2025. By the court's calculation, 32 days' notice was provided. 28 days' notice is required.

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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest 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 granted.

Global Lending Services LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2018 Cadillac ATS, VIN ending in 3472 ("Vehicle"). The moving party has provided the Declaration of Katrina Foster to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Roderick Levi Frazier ("Debtor"). Decl., Docket 21.

Movant argues Debtor has not made two post-petition payments in the amount of \$668.39 each. *Id.* at 2:26-28. Movant is currently in possession of the vehicle. *Id.* at 3:1-2.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. D, Docket 22. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$28,260.14 (Declaration 4:11, Docket 21), while the value of the Vehicle is determined to be \$15,975, as stated on the J.D. Power Valuation Report.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

No other or additional relief is granted by the court.

The court shall issue an 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 Global Lending Services LLC (“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 Motion is granted, and 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 Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2018 Cadillac ATS, VIN ending in 3472 (“Vehicle”), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

No other or additional relief is granted.

4. [24-23200](#)-E-7
[SKI](#)-1

LAURA GILLIS
Steven Alpert

**MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-6-25 [\[37\]](#)**

**AMERICAN CREDIT ACCEPTANCE
VS.**

CASE CONVERTED: 01/16/25

Final Ruling: No appearance at the February 11, 2025 hearing is required.

The hearing on the Motion for Relief has been renoticed and continued to February 13, 2025, at 10:00 a.m. This case having been converted to one under Chapter 7 on January 16, 2025, Docket 53, Movant renoticed the hearing to the court's Chapter 7 Calendar. No appearance at the February 11, 2025 hearing is required.