UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

February 25, 2020 at 1:30 p.m.

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1. **18-27506-E-13** **CHRISTA HYLEN**
JHW-1 **Peter Cianchetta**

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
1-17-20 [101]

AMERICAN CREDIT ACCEPTANCE LLC VS.

APPEARANCES OF SHERYL K. ITH AND JENNIFER H. WANG, AND EACH OF THEM, REQUIRED FOR HEARING

TELEPHONIC APPEARANCES PERMITTED

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 17, 2020. By the court's calculation, 39 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 granted.

American Credit Acceptance, LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2015 Mercedes-Benz GLK350, VIN ending in 4646 ("Vehicle"). The moving party has provided the Declaration of Sierra Martin to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Christa Lynne Hylen ("Debtor").

Movant argues Debtor has not made six (6) post-petition payments, with a total of $4,910.00 in post-petition payments past due. Declaration, Dckt. 104.

DEBTOR'S REPLY

Debtor filed a Reply on February 10, 2020. Dckt. 117. Debtor asserts that the vehicle is necessary for the parties to work as they currently have only the one Vehicle. Debtor further asserts that the delay in payments has been due to co-debtor's loss of employment and Debtor signing up for health benefits at a rate of $1,1000 per month which affected the total income she had to make plan payments. Debtor adds that she has eliminated the health benefits and co-debtor is now driving for Lyft. Finally, Debtor argues that the Vehicle is needed for effective reorganization.

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 $35,441.34 (Declaration, Dckt. 104), while the value of the Vehicle is determined to be $25,500.00, as stated in Schedules B and D filed by Debtor.

Prior Bankruptcy Filings

Though not addressed by the Parties, Debtor has had a series of prior recent bankruptcy cases. These cases are summarized as follows:

Chapter 13 Case 18-27506	Debtor, Represented by Counsel		Current Chapter 13 Case
		November 30, 2018	Filed
Chapter 13 Case 18-26032	Debtor, Represented by Same Counsel as in Current Case		
		October 13, 2018	Dismissed Failure to File Documents
		September 24, 2018	Filed

Chapter 7 Case 17-28244 (Originally Filed as a Chapter 13 Case)	Debtor and Co-Debtor Spouse, Represented by Same Counsel as in the Current Case		
		June 6, 2018	Discharge Entered
		February 21, 2018	Voluntary Conversion to Chapter 7
		February 8, 2018	Motion to Dismiss Due to: Failure to Attend 341 Meeting Failure to Make Plan Payments
		December 17, 2017	Chapter 13 Case Filed
Chapter 13 Case 17-25261	Debtor and Co-Debtor Spouse, Represented by Same Counsel as in the Current Case		
		November 30, 2017	Dismissed: Failure to Make Plan Payments, Failure to File Amended Plan
		August 9, 2017	Filed

Review of Current Case

On Schedule I signed by Debtor under penalty of perjury in this case, Debtor states that she has been employed at her current job for two weeks, and is paid $0.00 for such employment. Dckt. 1 at 28. Her spouse, who is not a co-debtor in this case, has been employed as the Director of Admissions at Wilson University for eleven months, and is paid $0.00 for such employment. *Id.* Debtor states under penalty of perjury that she and her non-debtor co-spouse have $0.00 in monthly income.

While having $0.00 in monthly income, Debtor further states that her family of four (Debtor, spouse, and two teenage children) have monthly expenses of ($4,439). Schedule J, *Id.* at 30-31.

Debtor first confirmed her plan by Order filed on April 15 2019. On April 29, 2019, the Chapter 13 Trustee filed a Motion to Dismiss the case, the Debtor having defaulted on that confirmed plan. Motion, Dckt. 49.

Debtor then filed a Modified Plan on May 17, 2019, and Motion to Confirm. The court granted the Motion to Confirm the Modified Plan on June 26, 2019.

On December 19, 2019, the Chapter 13 Trustee filed a Motion to Dismiss this case. Dckt. 82. The grounds were that Debtor was delinquent $4,090.00 in plan payments, with the monthly plan payments being $820.00.

On December 31, 2019, Debtor filed Supplemental Schedules and a Second Modified Plan. The filing of the Second Modified Plan was the only opposition stated to the Trustee's Motion to Dismiss. Opposition, Dckt. 92. The court denied without prejudice the Chapter 13 Trustee's Motion to Dismiss based on the Debtor having a Motion to Confirm the Second Modified Plan pending.

On February 11, 2020, the court entered its order denying the Motion to Confirm the Second Modified Plan. Dckt. 120.

11 U.S.C. § 362(d)(1)

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.

Movant and the non-debtor spouse have navigated multiple Chapter 13 bankruptcy cases, all unsuccessfully. Debtor failed to confirm a modified plan in this case to address the latest series of defaults in multiple monthly plan payments.

Debtor's declaration in opposition is short, succinct, and merely says that a payment of $922 was dropped off at he Chapter 13 Trustee's office on February 6, 2020. Dckt. 118. This appears to have been what would have been the payment due January 25, 2020 under the proposed Second Modified Plan which was denied confirmation. Nothing is offered as to why now, after the many defaults, Debtor and her non-debtor spouse will be able to perform a Chapter 13 plan after having failed since first filing the first Chapter 13 case in August 2017.

At this point, after many months in bankruptcy and failing to perform plans as promised, the court cannot conclude that the vehicle, while being the only vehicle the Debtor and her non-debtor spouse own, is necessary for an effective reorganization. Looking at the most recent Supplemental Schedules I and J, Dckt. 90, it is the non-debtor spouse who is the substantial income generator for the family, it being stated that he will generate $3,466.67 in net monthly income from being a Lyft driver. *Id.* at 4. No profit and loss statement is provided for the non-debtor spouse's business and how that monthly profit amount is computed.

Reviewing Supplemental Schedule J discloses several other inconsistencies:

A. Though being repeatedly unable to perform the Chapter 13 Plan as promised, Debtor and her non-debtor co-spouse are continuing to make monthly charitable/religious donations of ($572.00).

B. Though generating net monthly income of $3,466.67 by operating a Lyft driving service:

1. Non-debtor spouse does not have business liability insurance;

2. The monthly vehicle expense is stated to be only ($160) for gas, maintenance, repairs, and registration. This is for the full term of the Chapter 13 plan. This appears to be grossly inaccurate and inadequate.

a. If for registration for the 2015 Mercedes, oil changes for a commercially driven vehicle, repairs, and set aside for tires, brakes, and other commercially driven vehicle only $75 is set aside, that would leave $85 a month for gas.

(1) Assuming a per gallon gas cost of $3.25, this allows Debtor and non-debtor spouse to purchase 26 gallons of gas a month, which equals six gallons a week. Assuming 22 miles to the gallon for driving around town, that is only 132 miles a week for getting the Debtor to and from work, family travel, and non-debtor spouse's driving to generate income of $3,466.67.

C. For the term of the Plan Debtor, the non-debtor spouse, and the two teenage children will spend $0.00 a month for entertainment or recreation.

The court's review of the financial information provided under penalty of perjury does not indicate that there is a feasible plan or an ability of the Debtor and the non-debtor spouse to finally perform a Chapter 13 plan that will pay this creditor's claim. Or that will allow Debtor to have an effective reorganization in this case.

Co-Debtor Stay

Review of Minimum Pleading Requirements for a Motion

The Supreme Court requires that the motion itself state with particularity the grounds upon which the relief is requested. FED. R. BANKR. P. 9013. The Rule does not allow the motion to merely be a direction to the court to "read every document in the file and glean from that what the grounds should be for the motion." That "state with particularity" requirement is not unique to the Bankruptcy Rules and is also found in Federal Rule of Civil Procedure 7(b).

For more than ten years, creditors and their counsel, including Movant's counsel, has had this basic principle repeatedly stated to them in this court. Notwithstanding such statement of this basic pleading requirement set forth by the United States Supreme Court in the Federal Rules of Bankruptcy Procedure, Movant and Counsel state grounds in the Motion relief as to the Debtor, but merely throw in the prayer, as an afterthought, a demand that the court also grant relief from the 11 U.S.C. § 1301 co-debtor stay. [FN. 1.]

FN. 1. While failing to comply with the minimum pleading requirements for the Motion, the court notes that the Points and Authorities appears to include stock, cut and paste language concerning 11 U.S.C. § 1301. Clearly, Movant and counsel are aware of this provision, but consciously elected not to state the grounds in the Motion.

This stock language appears to include the contention that this 2015 Mercedes Benz is depreciating and has been surrendered. Movant and counsel make no attempt to provide the court with any allegations as to the terrible depreciation that is occurring.

More significantly, this Points and Authorities states a "fact" that is clearly false - that the vehicle has been surrendered. This is clearly contrary to the evidence as presented by Debtor. This statement appears to be inconsistent with the certifications provided in Federal Rule of Bankruptcy Procedure 9011.

Though this may well have been a "simple" cut and paste error committed by a non-lawyer clerical person preparing pleadings, the fees being paid by creditor being so low that an attorney could not afford to actually prepare the pleadings, this violation of Rule 9011 rests with the attorney and law firm.

While grounds may exist, Movant and counsel do not address it, appearing to assign that task to the court to advocate for Movant.

Though the court could deny such relief, leaving Movant and counsel with an embarrassing order that grants relief as to the Debtor, but leaves Movant handcuffed by the non-debtor stay, such would cause the court further wasted time and resources.

Here, though not stated by Movant, the non-debtor spouse wanting to use the vehicle for his continued generating of income and Debtor being incapable of performing a plan, is a basis for granting relief pursuant to 11 U.S.C. § 1301(c)(3). [FN. 2]

FN. 2. Movant and Movant's counsel should not take the court's summary statement of these grounds as being the proper pleading of such grounds as required by Federal Rule of Bankruptcy Procedure 9013. The court will let counsel figure that out on her own. Second, the court does not need to extend further time and resources providing legal services to Movant for which its attorney chose not (or was not adequately paid) to provide.

The court will address this gross pleading failure by separate order to show cause as to what corrective sanction should be ordered to correct this failure to comply with the Federal Rules of Bankruptcy Procedure enacted by the United States Supreme Court. For Movant, a corrective sanction in the amount of 0.5% of its gross income (saving Movant the time and expense of having to compute the net income) would not be unreasonable. The same may be true for Movant's counsel.

Further, in the event that Movant's counsel fails again to comply with this simple, basic pleading requirement stated by the United States Supreme Court, Movant and its clients can expect to see such motion denied with prejudice. Counsel can then explain to the client why it will be necessary to either file a Rule 60(b) motion on why such failure to comply with the pleading rules would be grounds to vacate the order or prosecute an appeal and explain to the appellate courts why the Federal Rules of Bankruptcy Procedure adopted by the United States Supreme Court are optional and can be overruled by Movant's counsel and counsel's other clients.

Grounds Stated in the Motion

Movant has not provided sufficient grounds to grant relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant argues in their Points and Authorities, Dckt. 103, that it would be irreparably harmed, pursuant to 11 U.S.C. § 1301(a), if relief from the co-debtor stay were not granted because the Vehicle is depreciating and the Vehicle was surrendered to Movant so payments are not being made to adequately protect Movant's interest. First, relief as to co-debtor is not requested in the actual motion for relief. The request is made in Movant's Points and Authorities.

Movant is reminded that "[f]ailure of counsel or of a party to comply with these [Local Bankruptcy] Rules . . . may be grounds for imposition of any and all sanctions authorized by statute or rule within the inherent power of the Court, including without limitation, **dismissal of any action**, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions." LOCAL BANKR. R. 1001-1(g) (emphasis added).

The court generally declines an opportunity to do associate attorney work and assemble motions for parties. It may be that Movant believes that the Points and Authorities is "really" the motion and should be substituted by the court for the Motion. That belief fails for multiple reasons. One is that under Local Bankruptcy Rule 9014-1(d)(4), a motion and a memorandum of points and authorities are separate documents, even though they may be filed as one document when not exceeding six pages. *See* Local Bankruptcy Rule 9014-(d)(4). The court has not waived that Local Rule for Movant.

Movant further asserts the Vehicle has been surrendered but no such action has taken place according to Debtor who states they are still driving the Vehicle. *See* Response, Dckt. 117.

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.

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 that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has 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 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 American Credit Acceptance, 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 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 2015 Mercedes-Benz GLK350 ("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.
>
> **IT IS FURTHER ORDERED** that the request to terminate the co-debtor stay of Vik Alan Hylen of 11 U.S.C. § 1301(a) is granted and relief is granted to the same extent as stated above as to the Debtor and bankruptcy estate.
>
> **IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.
>
> No other or additional relief is granted.

FINAL RULINGS

2. **19-24419-E-13** **LEE NEWTON**
EAT-1 **Nima Vokshori**

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
1-15-20 [41]

WELLS FARGO BANK, N.A. VS.
DEBTOR DISMISSED: 1/16/2020

Final Ruling: No appearance at the February 25, 2020 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, Creditor, and Office of the United States Trustee on January 15, 2020. By the court's calculation, 41 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 denied without prejudice as moot, the automatic stay having been terminated by dismissal of this bankruptcy case.

Wells Fargo, N.A. ("Movant") seeks relief from the automatic stay with respect to Lee Ann Newton's ("Debtor") real property commonly known as 6871 Auburn Blvd., Citrus Heights, California ("Property"). Movant has provided the Declaration of Charice Gladden to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

The instant case was dismissed on January 16, 2020, for failure to make plan payments. Dckt. 48.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

> (1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate**;
>
> (2) the stay of any other act under subsection (a) of this section continues until the earliest of—
>
> > (A) the time the case is closed;
> >
> > (B) ***the time the case is dismissed***; or
> >
> > (C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

> (1) reinstates—
> > (A) any proceeding or custodianship superseded under section 543 of this title;
> >
> > (B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and
> >
> > (C) any lien voided under section 506(d) of this title;
>
> (2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and
>
> (3) ***revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.***

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of January 16, 2020, the automatic stay as it applies to the Property, and as it applies to Debtor, was terminated by operation of law. At that time, the Property ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Property on January 16, 2020.

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 Wells Fargo Bank, N.A. ("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 as moot, this bankruptcy case having been dismissed on January 16, 2020 (prior to the hearing on this Motion). The court, by this Order, confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were terminated as to Lee Ann Newton ("Debtor") pursuant to 11 U.S.C. § 362(c)(2)(B) and the real property commonly known as 6871 Auburn Blvd., Citrus Heights, California, pursuant to 11 U.S.C. § 362(c)(1) and § 349(b)(3) as of the January 16, 2020 dismissal of this bankruptcy case.

3. **20-20434-E-13 WAJ-1** **MICHAEL WESTERN** **Pro Se** **MOTION FOR RELIEF FROM AUTOMATIC STAY** **2-4-20 [11]**

JUSTIN LAWRENCE VS.

Final Ruling: No appearance at the February 25, 2020 hearing is required.

Local Rule 9014-1(f)(2) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 13 Trustee, and Office of the United States Trustee on February 4, 2020. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Upon review of the Motion and supporting pleadings, and the files in this case, and this case having been dismissed, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Motion for Relief from the Automatic Stay is denied without prejudice as moot, the automatic stay having been terminated by dismissal of this bankruptcy case.

Creditor Justin Lawrence ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 3917 Clay Street, Sacramento, California ("Property"). The moving party has provided the Declaration of Carla Morgan to introduce evidence as a basis for Movant's contention that Michael A Western ("Debtor") does not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it is the owner of the Property. Based on the evidence presented, Debtor would be at best a tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of Sacramento. Exhibit A, Dckt. 14.

Based upon the evidence submitted, the court determines that there is no equity in the Property for either Debtor or the Estate. 11 U.S.C. § 362(d)(2).

The instant case was dismissed on February 14, 2020, for failure to timely file documents. Dckt. 17.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate**;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) ***the time the case is dismissed***; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) ***revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.***

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of February 14, 2020, the automatic stay as it applies to the Property, and as it applies to Debtor, was terminated by operation of law. At that time, the Property ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Property on February 14, 2020.

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 Creditor Justin Lawrence ("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 as moot, this bankruptcy case having been dismissed on February 14, 2020 (prior to the hearing on this Motion). The court, by this Order, confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were terminated as to Michael A. Western ("Debtor") pursuant to 11 U.S.C. § 362(c)(2)(B) and the real property commonly known as 3917 Clay Street, Sacramento, California, pursuant to 11 U.S.C. § 362(c)(1) and § 349(b)(3) as of the February 14, 2020 dismissal of this bankruptcy case.