

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

MODESTO DIVISION CALENDAR

February 27, 2020 at 10:00 a.m.

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1. [20-90044-E-7](#) **GINNED WILLIAMS** **MOTION FOR RELIEF FROM**
[ADR-1](#) **Pro Se** **AUTOMATIC STAY AND/OR MOTION**
 FOR ADEQUATE PROTECTION
 2-8-20 [26]

KOCHAR KUMAR 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 7 Trustee, and Office of the United States Trustee on February 8, 2020. By the court's calculation, 19 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 7 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. At the hearing, -----

The Motion for Relief from the Automatic Stay is denied without prejudice.

Kochar Bipan Kumar (“Movant”) seeks relief from the automatic stay with respect to the real property commonly known as 2501 Orchard Park Way, Modesto, California (“Property”). The moving party has provided the Declaration of Duke Leffler to introduce evidence as a basis for Movant’s contention that Ginned Williams (“Debtor”) does not have an ownership interest in or a right to maintain possession of the Property. Based on the evidence presented, Debtor would be at best a tenant at sufferance.

Movant has not provided a copy of the lease, notice of default, or the unlawful detainer action. Instead, Movant provides the Declaration of Duke Leffler, who states that he is the property manager for the Property and custodian of records of the management and income for the Property. Declarant testifies under penalty of perjury that Movant is the owner of the Property.

Unfortunately, Mr. Leffler does not testify that he is the owner, but somebody else is. He does not testify as to how he has personal knowledge of this, but it appears that he heard someone tell him that somebody owns the Property.

No lease is provided that he could authenticate. No notice of default is provided. No unlawful detainer complaint has been provided.

The only “evidence” presented as to why Movant should be given relief from the stay are the factual and legal conclusions made by Mr. Leffler.

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 Kochar Bipan Kumar (“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.

BANK OF THE WEST 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 Debtors, Debtor's Attorney, creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, and Office of the United States Trustee on January 30, 2020. By the court's calculation, 28 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.

Pursuant to Order, the hearing on the Motion for Relief from the Automatic Stay is continued to March 12, 2020 at 10:00 a.m. Dckt. 88.

3. [19-90989-E-11](#) **JAMIE/MELISSA BILLMAN** **MOTION FOR RELIEF FROM**
[SW-1](#) **Walter Dahl** **AUTOMATIC STAY**
 2-5-20 [64]
ALLY BANK 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors holding the twenty largest unsecured claims, creditors, parties requesting special notice, and Office of the United States Trustee on February 5, 2020. By the court's calculation, 22 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 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.

<p>The hearing on the Motion for Relief from the Automatic Stay is continued to March 12, 2020 at 10:00 a.m. Dckt. 89.</p>
