UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

March 15, 2022 at 1:30 p.m.

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1. **22-20007-E-13** **WANDA MOORE** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
EAT-1 **Peter Macaluso** **2-3-22 [28]**
WILMINGTON TRUST, NATIONAL ASSOCIATION 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 February 3, 2022. By the court's calculation, 40 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.

WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2016-1 ("Movant") seeks relief from the automatic stay with respect to Wanda Lynette Moore's ("Debtor") real property commonly known as 918 Shadywood Circle, Suisun City, California ("Property"). Movant has provided the Declaration of Lindsey Dallmer to introduce evidence to authenticate the documents upon which it bases the claim and

the obligation secured by the Property.

Movant argues Debtor has not made any payments since October 31, 2021. Declaration, Dckt. 30. Additionally, Debtor is due for the July 1, 2020 monthly mortgage payment. *Id*. Movant's Proof of Claim 3-1, filed February 10, 2022, states $28,800.78 is necessary to cure Debtor's default.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on March 1, 2022. Dckt. 43. Debtor's counsel states that Debtor has new renters with more ability to make the plan payment. Debtor also states they have not been using the bankruptcy case to "delay, hinder, or otherwise seek to interfere with Movant's ability to enforce it's state law remedies". In the alternative, Debtor requests a voluntary sale rather than granting this Motion for Relief.

While Debtor's counsel filed an opposition stating various "facts," missing is any testimony by Debtor opposing the Motion. While Debtor's counsel discusses "facts" (for which no testimony in opposition is filed, no discussion is provided as to why and how when Debtor could not afford make the plan payments due to alleged tenant breaches and being unable to evict the defaulting tenant due to COVID eviction restrictions, Debtor did not move to sell one of her properties.

This failure to act as the defaults grew is stated in light of the counter plea that Debtor would want to now, facing this Motion, to have a voluntary sale if this (as opposed to all of the prior cases over the past thirteen (13) years) Chapter 13 Plan is not performed.

Debtor did provide her Declaration in support of her request to have the court extend the stay as the Debtor as provided in 11 U.S.C. § 362(c)(3)(B). In it Debtor affirmatively states that all is now economically well and that her financial challenges; including having to support other family members, repairs to rental property, and COVID protected defaulting tenants. Dckt. 17. This testimony under penalty of perjury includes (identified by Declaration paragraph number):

> 2. I am refiling bankruptcy due to financial hardship. Due to the hardship of COVID-19, I was not receiving rental income and my bills increased. I experienced an increase in vehicle maintenance causing me to get behind. . . .I became delinquent in my payment doing repairs to my rental property that was damaged from the tornadoes. I had to help my family due to my brother's sickness and subsequent death on October 3, 2021, which caused financial hardship
>
> 3. Since my previous case was dismissed, my circumstances have changed. Since my brother's death, things have begun to return to normal and I will be returning to California soon.
>
> 7. I am pleading that my case be accepted in order that I may stay protected under bankruptcy laws and reorganize my debts, keep my homes and vehicle, and pay my creditors to the best of my ability.

Dckt. 17.

The court extended the stay as to the Debtor (which is the portion of the stay that would

terminate as provided in 11 U.S.C. § 362(c)(3)(A)). As stated in the Civil Minutes, the court had reservations about Debtor's conduct in her cases and good faith, stating in the Ruling on that Motion to Extend Stay:

> At the hearing, the court addressed with counsel for the Debtor some **serious issues concerning the Schedules and Statement of Financial Affairs**. These included **Debtor not disclosing the income and expenses relating to her investment property**, but only stating a net number (and not under the proper paragraph of Schedule I for business and rental income) on Schedule I.
>
> While having serious concerns over this repeat filing Debtor and her ability to prosecute the case and a plan in good faith, granting or denying the motion is not of significant issue in light of the plan language used by Congress in 11 U.S.C. § 362(c)(3) to terminate the stay only as to the Debtor personally, and not as to any property of the Bankruptcy Estate.
>
> The court afford[s] Debtor and her counsel (who has represented her in prior cases) **one final chance to prosecute and perform a Chapter 13 plan**.

Civil Minutes; Dckt. 26 (emphasis added).

TRUSTEE'S NONOPPOSITION

On March 1, 2022 Trustee filed a nonopposition stating the Debtor is delinquent $3,300.00 in plan payments (1 plan payment). Dckt. 45. Trustee requests the court grant this Motion.

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 $319,670.53 (Declaration, Dckt. 30), while the value of the Property is determined to be $530,000.00, as stated in Schedules A/B and D filed by Debtor.

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 Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

11 U.S.C. § 362(d)(4)
Prospective Relief from Future Stays

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (I) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

Certain patterns and conduct that have been characterized as bad faith include recent transfers of assets, a debtor's inability to reorganize, and unnecessary delays by serial filings. *Id.* Here, Movant is seeking to proceed with foreclosure on the subject Property. A foreclosure sale was scheduled for January 6, 2022, however, Debtor filed this bankruptcy case on January 3, 2022. This is Debtor's sixth (6th) bankruptcy case filed since 2009. A summary of these six bankruptcy cases set forth in the table below (the default in Plan Payments amounts are that stated in Motion to Dismiss and does not include any other subsequent defaults):

Chapter Case No. 09-24810	Representation: Same Counsel as in Present Case	
Filed.....March 19, 2009		
Case Dismissed for Failure to Make Plan Payments. Delinquency.....($7,405.73) Plan Payment.....$3,700/Month		
Dismissed....September 4, 2009		
	Representation: Same Counsel as in Present Case	**Chapter 13 Case No. 13-26191**
	May 3, 2013.....Filed	
	Case Dismissed for Failure to Make Plan Payments ($3,720.00).....Delinquency $1,910.....Plan Payment	
	January 25, 2016.....Dismissed	
Chapter Case No. 16-22863	Representation: Same Counsel as in Present Case	
Filed.....May 2, 2016		

Case Dismissed for Failure to Make Plan Payments. Delinquency.....($5,257.47) Plan Payment.....$1,752/Month		
Dismissed July 28, 2017		
	Representation: Same Counsel as in Present Case	**Chapter 13 Case No. 18-20052**
	January 4, 2018.....Filed	
	November 21, 2018.....Dismissed (Debtor elected to dismiss the case)	
Chapter Case No. 18-27246	Representation: Same Counsel as in Present Case	
Filed.....November 17, 2018		
Case Dismissed for Failure to Make Plan Payments. Delinquency.....($4,816.03) Plan Payment.....$2,416.03/Month		
Dismissed October 20, 2021		
	Representation: Same Counsel as in Present Case	**Current Chapter 13 Case No. 22-20007**
	January 3, 2021.....Filed	

Though Debtor has now existed in bankruptcy doing a five (5) year Chapter 13 plan reorganizing her finances for thirteen (13) years, the court also reviews what Debtor has paid in these prior cases (information from the Chapter 13 Trustee's final reports and Chapter 13 plans).

a. 09-24810 - Six Months From Filing to Dismissal

i. Total paid by Debtor.....$7,400

ii. Disbursements

(1) Debtor's Counsel.....$1,206.43 (in addition to $1,000 paid pre-petition)

(2) Trustee.....$ 696.43

(3) Creditor Mortgage Payments

(a) Current.....$3,864.00

(b) Arrearage.....$1,139.00

(4) Other Secured Claims.....$ 100.00

(5) Unsecured Claims.....$ 0.00

b. 13-26191 - Thirty-Two Months From Filing to Dismissal

i. Total paid by Debtor.....$51,0000

ii. Disbursements

(1) Debtor's Counsel.....$1,912.07 (in addition to $1,000 paid pre-petition)

(2) Trustee.....$2,538.05

(3) Creditor Mortgage Payments

(a) Current.....$38,468.29
(b) Arrearage.....$ 3,475.39

(4) Other Secured Claims.....$ 4,886.20

(5) Unsecured Claims.....$ 0.00

c. 16-22863 - Sixteen (16) Months From Filing to Dismissal

i. Total paid by Debtor.....$18,071.99

ii. Disbursements

(1) Debtor's Counsel.....$775.53 (in addition to $1,500 paid pre-petition)

(2) Trustee.....$1,144.66

(3) Creditor Mortgage Payments

(a) Current.....$14,051.29
(b) Arrearage.....$ 1,291.35

(4) Other Secured Claims.....$ 0.00

(5) Unsecured Claims.....$ 0.00

d. 18-20052 - Eleven (11) Months From Filing to Dismissal

i. Total paid by Debtor.....$15,780.00

ii. Disbursements

(1) Debtor's Counsel.....$600.00 (in addition to $1,500 paid pre-petition)

(2) Trustee.....$ 975.00

(3) Creditor Mortgage Payments

(a) Current.....$11,052.81
(b) Arrearage.....$ 2,374.84

(4) Other Secured Claims.....$ 777.35

iii. Unsecured Claims.....$ 0.00

e. 18-27246 - Thirty-Six (36) Months From Filing to Dismissal

Final Report Not Filed by Trustee. Data From Motion to Dismiss and Ruling

i. Total paid by Debtor.....$60,800.87

ii. Disbursements

(1) Debtor's Counsel.....$600.00 (in addition to $1,500 paid pre-petition)

(2) Trustee.....$ 975.00

(3) Creditor Mortgage Payments

(a) Current.....$11,052.81
(b) Arrearage.....$ 2,374.84

(4) Other Secured Claims.....$ 777.35

iii. Unsecured Claims.....$ 0.00

Proof of Claim 3-1 filed by Movant lists the total amount of the claim is $319,127.86, with the pre-petition arrearage is stated to $28,80078.

When the first bankruptcy case was filed in 2009, Proof of Claim 3-1 filed for the secured claim by Debtor's residence, the amount of the claim was stated to be $411,888.31, with an arrearage of $14,039.19. 09-24810. Through the more than a decade of bankruptcy, the total debt has been reduced,

but the arrearage has doubled.

Debtor provided no testimony explaining what has occurred since this case was filed to cause defaults since this case was filed. Her prior testimony in the Declaration in support of the Motion to Extend the Stay filed in January 2022 states that "all is well, the financial disruptions are in the rearview mirror. Notwithstanding those assurances under penalty of perjury, the Trustee reports that Debtor is in default in Plan payments in the amount of $3,300.00, which is one monthly payment. Dckt. 45. This was filed by the Trustee on March 1, 2022, and as of that time, only one monthly plan payment had come due (that being on February 25, 2022.

At the hearing, **xxxxxxx**

Relief pursuant to 11 U.S.C. § 362(d)(4) may be granted if the court finds that two elements have been met. The filing of the present case must be part of a scheme, and it must contain improper transfers or multiple cases affecting the same property.

~~With respect to the elements, the court concludes that the filing of the current Chapter 13 case in the Eastern District of California was part of a scheme by Debtor to hinder and delay Movant from conducting a nonjudicial foreclosure sale by filing multiple bankruptcy cases.~~

The fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial crisis and allow all parties, debtor and creditors, to take stock of the situation.

~~In reviewing the history of financial struggles by Debtor and failure to complete multiple bankruptcy cases since 2009, the court concludes that the filing of the current Chapter 13 case cannot have been for any *bona fide*, good faith reason. While Debtor may be desperate to stop the foreclosure sale due to the substantial ongoing defaults for the past twelve (12) years, Debtor has repeatedly failed to fulfill her obligations under the Bankruptcy Code.~~

~~The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 362(d)(4). Movant has provided sufficient evidence concerning bankruptcy cases being filed to prevent actions against the Property. Movant has provided the court with evidence that Debtor has engaged in a scheme to hinder, defraud, and delay creditors through the multiple filing of bankruptcy cases.~~

~~In granting the 11 U.S.C. § 362(d)(4) relief, the court notes that such is not the end of the game for Debtor. While granting relief through this case, if Debtor has a good faith, bona fide reason to commence another case while that order is in effect for the Property, the judge in the subsequent case can impose the stay in that case. 11 U.S.C. § 362(c)(4). That would ensure that Debtor, to the extent that some bona fide reason existed, would effectively assert such rights rather than filing several bankruptcy cases that are then dismissed.~~

Request for Attorneys' Fees

A claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages. FED. R. CIV. P. 54(d)(2)(A); FED. R. BANKR. P. 7054, 9014.

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 WILMINGTON TRUST, NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR MFRA TRUST 2016-1 ("Movant") been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 918 Shadywood Circle, Suisun City, California ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

~~**IT IS FURTHER ORDERED** that the above relief is also granted pursuant to 11 U.S.C. § 362(d)(4), which further provides:~~

~~"If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording."~~

No other or additional relief is granted.

2.	**22-20445-E-13 RHS-1**	**ESTATE OF DELORIS MILES CHARITY Pro se**	**ORDER TO SHOW CAUSE AND APPEAR AT HEARING 3-1-22 [9]**

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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), Interested Parties, Chapter 13 Trustee, and U.S. Trustee as stated on the Certificate of Service on March 3rd and 4th, 2022. The court computes that 11 and 12 days' notice has been provided.

The court issued an Order to Show Cause based on deficiencies in Debtor's petition.

The Order to Show Cause is sustained, and the case is dismissed.

ORDER TO SHOW CAUSE

On February 28, 2022, Karen Rudulph Roger A. Brown, Jr., identified as the "Administrator," filed a Voluntary Petition for Individuals Filing for Bankruptcy in which the Debtor is identified as "Estate of Deloris Miles Charity." Dckt. 1. The address where the Debtor "lives" is stated to be 10111 Crawford Way, Sacramento, California, 95837.

In looking at the initial pleadings, the Petition, the court notes some inconsistent information. The case is filed in the name of Estate of Deloris Miles Charity.

The Public Records searchable through LEXIS disclose that Deloris (aka Delores, Dolores, Delord) Charity residing at 10111 Crawford Way, Sacramento, California passed away on October 10, 2017 – four years and four months before the filing of this case.

Karen Rudulph is listed as a "Family Member" at the 10111 Crawford Way, Sacramento, California property.

There is no signature provided on page 6 of the Voluntary Petition for Debtor or an authorized representative of Debtor. Dckt. 1 at 7. The name Karen Rudulph, Administrator is printed in, which appears to be done in lieu of a cursive signature. The last page of the Petition stating that the person filing the Petition is not represented by an attorney is signed (printed) by Karen Rudulph. *Id.* at 8.

No Lenders of Administration are attached to document that Karen Rudulph is a court appointed administrator.

Who and What May File Bankruptcy

Congress provides in 11 U.S.C. § 109(b) that a "person" may be a Chapter 7 debtor, with railroads, and various domestic and foreign insurance and financial institutions excluded. The term person is defined in 11 U.S.C. § 101(41) as follows:

> (41) The term "person" includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—
>
> (A) acquires an asset from a person—
>
> (I) as a result of the operation of a loan guarantee agreement; or
>
> (ii) as receiver or liquidating agent of a person;
>
> (B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or
>
> (C) is the legal or beneficial owner of an asset of—
>
> (I) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or
>
> (ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;
>
> shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit.

Though non-exclusive, a "Person" includes individuals and business entities. It has long been established that the administrator of a decedent's estate or a decedent's estate is not a "person" eligible to file bankruptcy. These cases include the following decisions:

> Based on these indicia, we conclude that the Code's definition of "person," and therefore its definition of "debtor," excludes insolvent decedents' estates. Other courts that have addressed this question have uniformly embraced this view. *See In re Estate of Whiteside*, 64 B.R. 99, 102 (Bankr.E.D.Cal.1986); *In re Estate of Patterson*, 64 B.R. 807, 808 (Bankr.W.D.Tex.1986); *In re Jarrett*, 19 B.R. 413, 414 (Bankr.M.D.N.C.1982); *In re 299 Jack-Hemp Assocs.*, 20 B.R. 412, 413 (Bankr.S.D.N.Y.1982); *In re Estate of Brown*, 16 B.R. 128, 128 (Bankr.D.D.C.1981). These courts generally have opined that Congress elected not to extend bankruptcy jurisdiction to insolvent decedents' estates because the individual states have developed, through their probate systems, a comprehensive and specialized machinery for the administration of such estates. *See Jarrett*, 19 B.R. at 414; 299 *Jack-Hemp Assocs.*, 20 B.R. at 413. Some of the courts have also noted that the policy of the Bankruptcy Code is to give individuals a "fresh start"

through discharge of their debts, and that this policy is not furthered by bankruptcy administration of decedents' estates. *See Jarrett*, 19 B.R. at 414; cf. *In re Estate of Hiller*, 240 F. Supp. 504, 504 (N.D.Cal.1965) (interpreting 1898 Bankruptcy Act); *Adams v. Terrell*, 4 Wood. 337, 4 F. 796, 801 (W.D.Tex.1880) (in the case of an insolvent decedent's estate, "death has already discharged [the decedent] of all personal liability").

In re Goerg, 844 F.2d 1562, 1566 (11th Cir. 1988)

In 2006 the Supreme Court discussed this probate exception in less exclusive terms, making it clear that merely because the "p word" was involved the federal court could walk away from the matter.

> Reversing the Ninth Circuit, which had ordered the case dismissed for want of federal subject-matter jurisdiction, this Court held that federal jurisdiction was properly invoked. The Court first stated:
>
> > "**It is true that a federal court has no jurisdiction to probate a will or administer an estate** . . . . But it has been established by a long series of decisions of this Court that **federal courts of equity have jurisdiction to entertain suits 'in favor of creditors, legatees and heirs' and other claimants against a decedent's estate 'to establish their claims' so long as the federal court does not interfere with the probate proceedings or assume general jurisdiction of the probate or control of the property in the custody of the state court**." 326 U.S., at 494, 66 S. Ct. 193, 90 L. Ed. 165 (quoting Waterman, 215 U.S., at 43, 30 S. Ct. 10, 54 L. Ed. 80).
>
> Next, the Court described a probate exception of distinctly limited scope:
>
> > "[W]hile a **federal court may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court**, . . . it may exercise its jurisdiction to adjudicate rights in such property where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court." , 66 S. Ct. 193, 90 L. Ed. 165.

The first of the above-quoted passages from *Markham* is not a model of clear statement. The Court observed that federal courts have jurisdiction to entertain suits to determine the rights of creditors, legatees, heirs, and other claimants against a decedent's estate, **"so long as the federal court does not *interfere with the probate proceedings*."** *Ibid.* (emphasis added). Lower federal courts have puzzled over the meaning of the words "interfere with the probate proceedings," and some have read those words to block federal jurisdiction over a range of matters well beyond probate of a will or administration of a decedent's estate. *See,*

> *e.g., Mangieri v. Mangieri*, 226 F.3d 1, 2-3 (CA1 2000) (breach of fiduciary duty by executor); *Golden ex rel. Golden v. Golden*, 382 F.3d 348, 360-362 (CA3 2004) (same); *Lepard v. NBD Bank, Div. of Bank One*, 384 F.3d 232, 234-237 (CA6 2004) (breach of fiduciary duty by trustee); Storm v. Storm, 328 F.3d 941, 943-945 (CA7 2003) (probate exception bars claim that plaintiff's father tortiously interfered with plaintiff's inheritance by persuading trust grantor to amend irrevocable inter vivos trust); *Rienhardt v. Kelly*, 164 F.3d 1296, 1300-1301 (CA10 1999) (probate exception bars claim that defendants exerted undue influence on testator and thereby tortiously interfered with plaintiff's expected inheritance).
>
> We read Markham's enigmatic words, in sync with the second above-quoted passage, to proscribe "disturb[ing] or affect[ing] the possession of property in the custody of a state court." 326 U.S., at 494, 66 S. Ct. 296, 90 L. Ed. 256. True, that reading renders the first-quoted passage in part redundant, but redundancy in this context, we do not doubt, is preferable to incoherence. In short, **we comprehend the "interference" language in *Markham* as essentially a reiteration of the general principle that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res***. *See, e.g., Penn General Casualty Co. v. Pennsylvania ex rel. Schnader*, 294 U.S. 189, 195-196, 55 S. Ct. 386, 79 L. Ed. 850 (1935); *Waterman*, 215 U.S., at 45-46, 30 S. Ct. 10, 54 L. Ed. 80. Thus, **the probate exception reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate**; it also **precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court**. But it does not bar federal courts from adjudicating matters outside those confines and otherwise within federal jurisdiction.

Marshall v. Marshall 547 U.S. 293, 311-312 (2006).

Even with the admonition from the Supreme Court not to drop a proceeding merely because it would relate to a probate proceeding, including a probate estate as a “person” who may file bankruptcy would necessarily wrench from the state court the administration of the probate estate and property of the probate estate, sweeping it all into the bankruptcy estate 11 U.S.C. § 541, 28 U.S.C. § 1334 (e) (granting exclusive federal court jurisdiction over all property of the bankruptcy estate).

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 Order to Show Cause having been presented to the court, and upon review of the Petition, it relating to a decedent’s estate, there being an ongoing proceeding in the California Superior Court for the administration of that estate, on behalf of the decedent, and good cause appearing,
>
> **IT IS ORDERED** that the Order to Show Cause is sustained, no other

sanctions are issued pursuant thereto, and the case is dismissed.

3.	**22-20188-E-13 RHS-1**	**ESTATE OF BERTHA REID Pro Se**	**CONTINUED ORDER TO SHOW CAUSE 2-1-22 [12]**

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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), Chapter 13 Trustee, Interested Parties, and US Attorney as stated on the Certificate of Service on February 10, 2022. Dckt. 18. The court computes that 5 days' notice has been provided.

The court issued an Order to Show Cause for why the case should not be dismissed due to various deficiencies in the Chapter 13 filings.

The Order to Show Cause is xxxxxxxxxxxxxxxxx

ORDER TO SHOW CAUSE

On January 27, 2022, Roger A. Brown, Jr., identified as the "Administrator for the Estate of Bertha Reid," filed a Voluntary Petition for Individuals Filing for Bankruptcy in which the Debtor is identified as "Estate of Bertha Reid." Dckt. 1. The address where the Debtor "lives" is stated to be 339 Light House, Sacramento, California.

There is no signature provided on page 6 of the Voluntary Petition for Debtor or an authorized representative of Debtor. Dckt. 1 at 6. The last page of the Petition stating that the person filing the Petition is not represented by an attorney is signed by Roger A. Brown, Jr. *Id*. at 8. No other contact information than the Light House address is provided for Roger A. Brown, Jr. on page 8 of the Petition.

Attached to the Petition is a document titled "Letters Special Administration" for the Estate of Bertha Reid, with a case number 34-2021-00312549, with the court identified as the California Superior Court for the County of Sacramento. *Id*. at 9.

The attorney on the Letters Special Administration for the Estate of Bertha Reid is identified as Steven R. Matulich, State Bar No. 71851, with his address stated to be 1104 Corporate Way, #106, Sacramento, California, 95831. *Id*. Mr. Matulich is listed as an attorney with an active license to practice law by the State Bar of California.

Included with the Petition are several documents relating to the appointment of Roger A. Brown, Jr. as special administrator for the Estate of Bertha Reid. In these documents, Roger A. Brown, Jr. Is

identified as a "nominee of Peter Reid, one of Bertha Reid's children and an heir of the estate." Dckt. 1 at 25.

Who and What May File Bankruptcy

Congress provides in 11 U.S.C. § 109(b) that a "person" may be a Chapter 7 debtor, with railroads, and various domestic and foreign insurance and financial institutions excluded. The term person is defined in 11 U.S.C. § 101(41) as follows:

> (41) The term "person" includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—
>
> (A) acquires an asset from a person—
>
> (I) as a result of the operation of a loan guarantee agreement; or
>
> (ii) as receiver or liquidating agent of a person;
>
> (B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or
>
> (C) is the legal or beneficial owner of an asset of—
>
> (I) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or
>
> (ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;
>
> shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit.

Though non-exclusive, a "Person" includes individuals and business entities. It has long been established that the administrator of a decedent's estate or a decedent's estate is not a "person" eligible to file bankruptcy. These cases include the following decisions:

> Based on these indicia, we conclude that the Code's definition of "person," and therefore its definition of "debtor," excludes insolvent decedents' estates. Other courts that have addressed this question have uniformly embraced this view. *See In re Estate of Whiteside*, 64 B.R. 99, 102 (Bankr.E.D.Cal.1986); *In re Estate of Patterson*, 64 B.R. 807, 808 (Bankr.W.D.Tex.1986); *In re Jarrett*, 19 B.R. 413, 414 (Bankr.M.D.N.C.1982); *In re 299 Jack-Hemp Assocs.*, 20 B.R. 412, 413 (Bankr.S.D.N.Y.1982); *In re Estate of Brown*, 16 B.R. 128, 128 (Bankr.D.D.C.1981). These courts generally have opined that Congress elected not to extend bankruptcy jurisdiction to insolvent decedents' estates because the individual states have developed, through their probate systems, a comprehensive and specialized

> machinery for the administration of such estates. *See Jarrett*, 19 B.R. at 414; 299 *Jack-Hemp Assocs.*, 20 B.R. at 413. Some of the courts have also noted that the policy of the Bankruptcy Code is to give individuals a "fresh start" through discharge of their debts, and that this policy is not furthered by bankruptcy administration of decedents' estates. *See Jarrett*, 19 B.R. at 414; cf. *In re Estate of Hiller*, 240 F. Supp. 504, 504 (N.D.Cal.1965) (interpreting 1898 Bankruptcy Act); *Adams v. Terrell*, 4 Wood. 337, 4 F. 796, 801 (W.D.Tex.1880) (in the case of an insolvent decedent's estate, "death has already discharged [the decedent] of all personal liability").

In re Goerg, 844 F.2d 1562, 1566 (11th Cir. 1988).

In 2006 the Supreme Court discussed this probate exception in less exclusive terms, making it clear that merely because the "p word" was involved the federal court could walk away from the matter.

> Reversing the Ninth Circuit, which had ordered the case dismissed for want of federal subject-matter jurisdiction, this Court held that federal jurisdiction was properly invoked. The Court first stated:
>
> > "**It is true that a federal court has no jurisdiction to probate a will or administer an estate** . . . . But it has been established by a long series of decisions of this Court that **federal courts of equity have jurisdiction to entertain suits 'in favor of creditors, legatees and heirs' and other claimants against a decedent's estate 'to establish their claims' so long as the federal court does not interfere with the probate proceedings or assume general jurisdiction of the probate or control of the property in the custody of the state court**." 326 U.S., at 494, 66 S. Ct. 193, 90 L. Ed. 165 (quoting Waterman, 215 U.S., at 43, 30 S. Ct. 10, 54 L. Ed. 80).
>
> Next, the Court described a probate exception of distinctly limited scope:
>
> > "[W]hile a **federal court may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court**, . . . it may exercise its jurisdiction to adjudicate rights in such property where the final judgment does not undertake to interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court." , 66 S. Ct. 193, 90 L. Ed. 165.

The first of the above-quoted passages from *Markham* is not a model of clear statement. The Court observed that federal courts have jurisdiction to entertain suits to determine the rights of creditors, legatees, heirs, and other claimants against a decedent's estate, **"so long as the federal court does not *interfere with the probate proceedings***." *Ibid.* (emphasis added). Lower federal courts have puzzled over the meaning of the words "interfere with the probate proceedings," and some have read those words to block federal jurisdiction over a range of matters well beyond probate

> of a will or administration of a decedent's estate. *See, e.g., Mangieri v. Mangieri*, 226 F.3d 1, 2-3 (CA1 2000) (breach of fiduciary duty by executor); *Golden ex rel. Golden v. Golden*, 382 F.3d 348, 360-362 (CA3 2004) (same); *Lepard v. NBD Bank, Div. of Bank One*, 384 F.3d 232, 234-237 (CA6 2004) (breach of fiduciary duty by trustee); Storm v. Storm, 328 F.3d 941, 943-945 (CA7 2003) (probate exception bars claim that plaintiff's father tortiously interfered with plaintiff's inheritance by persuading trust grantor to amend irrevocable inter vivos trust); *Rienhardt v. Kelly*, 164 F.3d 1296, 1300-1301 (CA10 1999) (probate exception bars claim that defendants exerted undue influence on testator and thereby tortiously interfered with plaintiff's expected inheritance).
>
> We read Markham's enigmatic words, in sync with the second above-quoted passage, to proscribe "disturb[ing] or affect[ing] the possession of property in the custody of a state court." 326 U.S., at 494, 66 S. Ct. 296, 90 L. Ed. 256. True, that reading renders the first-quoted passage in part redundant, but redundancy in this context, we do not doubt, is preferable to incoherence. In short, **we comprehend the "interference" language in *Markham* as essentially a reiteration of the general principle that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res***. *See, e.g., Penn General Casualty Co. v. Pennsylvania ex rel. Schnader*, 294 U.S. 189, 195-196, 55 S. Ct. 386, 79 L. Ed. 850 (1935); *Waterman*, 215 U.S., at 45-46, 30 S. Ct. 10, 54 L. Ed. 80. Thus, **the probate exception reserves to state probate courts the probate or annulment of a will and the administration of a decedent's estate**; it also **precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court**. But it does not bar federal courts from adjudicating matters outside those confines and otherwise within federal jurisdiction.

Marshall v. Marshall 547 U.S. 293, 311-312 (2006).

Even with the admonition from the Supreme Court not to drop a proceeding merely because it would relate to a probate proceeding, including a probate estate as a "person" who may file bankruptcy would necessarily wrench from the state court the administration of the probate estate and property of the probate estate, sweeping it all into the bankruptcy estate 11 U.S.C. § 541, 28 U.S.C. § 1334 (e) (granting exclusive federal court jurisdiction over all property of the bankruptcy estate).

February 15, 2022 Hearing

Neither Roger A. Brown, Jr. , the Special Plan Administrator who filed the Petition for the Estate of Bertha Reid, and Steven R. Matulich, State Bar No. 71851, counsel for Mr. Matulich in the State Court proceeding obtaining the appointment of Mr. Brown as the Special Plan Administrator appeared at the February 15, 2022 hearing as ordered by the Court. Order, Dckt. 12.

Due to the failure of Mr. Brown and Mr. Matulich failing to comply with this court's order to appear, the hearing is continued to 1:30 p.m. on March 15, 2022.

The court issued in conjunction with the order continuing the hearing, an Order to Show Cause for Mr. Brown and Mr. Matulich, and each of them, to show cause why the court does not order a correction sanction of $2,500.00 each to be paid them for failure to comply with this court's order to

appear.

Order to Show Cause Why Sanctions Should Not be Ordered

IT IS FURTHER ORDERED that Roger A. Brown, Jr. and Steven R. Matulich, Esq., and each of them shall appear in person (No Telephonic Appearances Permitted for the persons ordered to appear) on March 15, 2022, at 1:30 p.m. (Specially Set day and time) in Department E of the United States Bankruptcy Court, 501 I Street, Sixth Floor, Sacramento, California, to show cause as to why the court does not order the payment of a corrective sanction of $2,500.00 each by Roger A. Brown, Jr. and Steven R. Matulich, Esq. for their respective failure to comply with the Order of this Court (Dckt. 12) to appear in person at the February 15, 2022 hearing.

Order, p. 2:1-8; Dckt. 24.

Additionally, the court's order shall also request them to show cause why, if they fail to appear at the March 15, 2022 hearing, why the court should not order a further corrective sanction in the amount of $6,500.00 for a further continued hearing if they fail to appear as further ordered. Additionally, the court "reminded" Mr. Brown and Mr. Matulich that if they failed to appear at the March 15, 2022 hearing as ordered, the court will issue an order for the U.S. Marshal to take the noncompliant party into custody and deliverer them to the courthouse for the further continued hearing, and taking them into custody sufficiently in advance of the further continue hearing to insure that the Marshall will have them at the further continued hearing.

Status of Case

No status statements have been filed with the court since the February 15, 2022 hearing. The court notes that a Meeting of Creditors is to take place on March 10, 2022. Dckt. 22.

March 15, 2022 Hearing

At the hearing, XXXXXXXXXX

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 Order to Show Cause re the filing of a bankruptcy case for the Estate of Bertha Reid, 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 Order to Show Cause is xxxxxxxxxxxxxx

4. **22-20188-E-13** **ESTATE OF BERTHA REID** **CONTINUED MOTION TO DISMISS CASE**
Pro Se **2-9-22 [16]**

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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), Interested Parties, Chapter 13 Trustee, and U.S. Trustee as stated on the Certificate of Service on February 1, 2022. The court computes that 14 days' notice has been provided.

The court issued an Order to Show Cause based on deficiencies in Debtor's petition.

The Motion to Dismiss is xxxxxxxxxxxxxxxx

The court's review of Debtor's petition reflects the following deficiencies with the bankruptcy case:

1. There is no signature provided on page six (6) of the Voluntary Petition for Debtor or an authorized representative of Debtor. However, Included with the Petition are several documents relating to the appointment of Roger A. Brown, Jr. as special administrator for the Estate of Bertha Reid.

2. The last page of the Petition stating that the person filing the Petition is not represented by an attorney is signed by Roger A. Brown, Jr.

3. No other contact information than the Light House address, 339 Light House, Sacramento, California, is provided for Roger A. Brown, Jr. on page eight (8) of the Petition, which is also identified as Debtor's address.

DEBTOR'S MOTION TO DISMISS

Debtor filed a Motion to Dismiss the Chapter 13 bankruptcy case on February 9, 2022. Dckt. 16.

Roger A. Brown, the Special Administrator for the Estate of Bertha Reid, did not appear at the hearing on the Motion he filed. The court continues the hearing, to be conducted in conjunction with the court's Order to Show Cause.

Status of Case

No status statements have been filed with the court since the February 15, 2022 hearing. The court notes that a Meeting of Creditors is to take place on March 10, 2022. Dckt. 22.

March 15, 2022 Hearing

At the hearing, XXXXXXXXXX

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 to Dismiss the Chapter 13 case filed by Roger A. Brown, Jr., as the Special Administrator for the Estate of Bertha Reid,, 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 to Dismiss is xxxxxxxxxxxx.

5.	**19-26080-E-13**	**HARNIDER SANDHU AND**	**STATUS CONFERENCE RE: MOTION TO DISMISS CASE**
	DPC-1	**RAJWINDER KAUR** **Mohammad Mokarram**	**1-12-22 [31]**

The Motion to Dismiss Status Conference is xxxxxxx
and
xxxxxxx

On February 16, 2022, this court issued its Conditional Order of Dismissal, whereby this bankruptcy case would be dismissed if Debtors were not current in all plan payments as of February 28, 2022 (which included the $1,100.00 payment coming due on February 25, 2022). Order and Civil Minutes; Dckts. 39, 38. The Trustee's Motion to Dismiss stated that the defaults under the plan as of the February 9, 2022 hearing on the Motion to Dismiss totaled $3,300.00 (three (3) months of default, which did not include the February 25, 2022 payment which would not have yet come due). Dckt. 31.

On March 2, 2022, Chapter 13 Trustee's counsel filed his Declaration stating that Debtors did pay the $3,300.00 amount to cure the delinquencies that existed as of the February 9, 2022 hearing. Dckt. 41. However, Debtors had not paid the $1,100.00 which came due on February 25, 2022. *Id.*

As stated in the Motion to Dismiss and the amount confirmed in the Declaration, Debtors have funded this plan with $30,800.00 for the plan payments that came due through January 25, 2022. Clearly, Debtors have invested seriously in this Plan over the first twenty-eight (28) months of the Plan.

The Chapter 13 Plan provides for a 4% dividend to be paid on a projected ($251,826.00) of general unsecured claims. Plan, ¶ 3.14; Dckt. 2. The only other claim paid through the plan is the debt secured by Debtors' Mercedes Benz.

A review of the file indicates that Debtors have not sought relief from the conditional order or taken any action to protect the $30,800.00 investment in the case over the last twenty-eight (28) months.

Before the court dismisses this case, the court set this Dismissal Status Conference at which both Debtors and their counsel shall appear, providing one last economic life vest to Debtors.

MARCH 15, 2022 STATUS CONFERENCE

Debtor and Debtor's counsel did not file any status updates prior to the Status Conference, the court's order (Dckt. 43) expressly stating that no written response was required and Debtor and counsel could address the issues orally in court at the Status Conference.

At the Status Conference, **XXXXXXX**

FINAL RULINGS

6. **20-21910-E-13 KMM-1** **TIMOTHY TROCKE**
Gary Fraley
TOYOTA MOTOR CREDIT CORPORATION VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
1-24-22 [332]

Final Ruling: No appearance at the March 15, 2022 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 24, 2022. By the court's calculation, 50 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.

Toyota Motor Credit Corporation, d/b/a Toyota Financial Services ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2019 Toyota Tacoma, VIN ending in 1693 ("Vehicle"). The moving party has provided the Declaration of Donna Delahanty to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Timothy Tobias Trocke ("Debtor").

Movant argues Debtor has not made three post-petition payments, with a total of $2,175.96 in post-petition payments past due. Declaration, Dckt. 335.

J.D. POWER

Movant has also provided a copy of the J.D. POWER Valuation Report for the Vehicle. 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 $19,807.59 (Declaration, Dckt. 335), while the value of the Vehicle is determined to be around $36,700.00, as stated in the JD POWER report, which is more than Debtor's valuation as stated in Schedules A/B and D filed by Debtor. Debtor states the value as $19,069.00, which Debtor may be confused with the total value of the vehicle and total debt owed on the vehicle.

Additionally, according to Debtor's Schedule A/B, the vehicle is registered to Debtor and Debtor's sister. However, the loan is in Debtor's sister's name. Debtor's sister makes the car payments. Schedule A/B, Dckt. 11. Upon review of Movant's Proof of Claim 3-1 and Movant's Exhibits in support of this Motion, Debtor is listed as "Co-Owner." Proof of Claim 3-1; Exhibits, Dckt. 336. Therefore, it appears to the court that Debtor is a "Co-debtor" to the debt owed to Toyota Financial Services.

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.

Co-Debtor Stay

Additionally, Movant has provided sufficient grounds to grant relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant has established, pursuant to 11 U.S.C. § 1301(a), that it would be irreparably harmed if relief from the co-debtor stay were not granted because Movant is not being adequately protected by delinquent payments.

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 Toyota Motor Credit Corporation, d/b/a Toyota Financial Services ("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 2019 Toyota Tacoma, VIN ending in 1693 ("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 Penelope Trocke of 11 U.S.C. § 1301(a) is granted to the same extent as provided in the forgoing paragraph granting relief from the automatic stay arising under 11 U.S.C. § 362(a).

No other or additional relief is granted.

7. 08-39529-E-13 LEAH GILMORE

POST PLAN COMPLETION STATUS CONFERENCE RE: VOLUNTARY PETITION
12-31-08 [1]

THE MATTER IS REMOVED FROM THE CALENDAR AND THE COURT VACATES ITS PRIOR ORDER REQUIRING SPECIFIED PERSONS TO APPEAR

CASE CLOSED: 04/14/2014

Final Ruling: No appearance at the March 15, 2022 Status Conference is required.

The Status Conference is concluded and removed from the Calendar.

The court vacates its order requiring the appearances of any specified persons.

MARCH 15, 2022 POST PLAN COMPLETION STATUS CONFERENCE

On March 4, 2022, one day after the court issued its order for the Status Conference, counsel for Debtor filed a Status Report. It appears that Debtor and the Creditors have been able to resolve this Matter. Specifically, Debtor reports that Debtor has clear title and the requests that the court vacates the Status Conference Order. It appears that the Deed of Trust was long ago reconveyed (in 2018) but the title company reviewing the record for Debtor's pending escrow "missed it." Report, Dckt. 132.

Because the request to vacate the Status Conference Order was in a Report, and not a simple ex parte motion filed and proposed order lodged with the court, this information was not identified until late of March 14, 2022.

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 Post Plan Completion Status Conference having been scheduled, Debtor filing a Status Report that the post plan completion matters have been resolved, with a title company identifying its error in not locating the

reconveyance of a deed of trust, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Status Conference is concluded and removed from the March 15, 2022 calendar.

IT IS FURTHER ORDERED that the court vacates that portion of its March 2, 2022 Order requiring the appearances of specified persons, and **NO APPEARANCES BY ANY PERSONS SPECIFIED IN THE MARCH 2, 2022 ORDER (Dckt. 122) ARE REQUIRED.**