

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

March 25, 2025 at 1:30 p.m.

1. [24-21910-E-13](#) TAMMY ANDREWS
[KMM-1](#) Patricia Wilson

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
1-10-25 [\[56\]](#)

CITIBANK, N.A. VS.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on January 10, 2025. By the court's calculation, 32 days' notice was provided. 28 days' notice is required.

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

The Motion for Relief from the Automatic Stay is XXXXXXX.

March 25, 2025 Hearing

The court continued the hearing on this Motion to allow Debtor to cure the post-petition delinquency. Nothing new has been filed under this Docket Control Number as of the court's March 19, 2025 review of the Docket. Debtor has filed a Modified Plan, Motion to Confirm, and a Motion to Value on March 17, 2025.

At the hearing, XXXXXXX

REVIEW OF MOTION

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

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

The Chapter 13 Trustee filed a Nonopposition on February 5, 2025. Docket 66.

DEBTOR’S OPPOSITION

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

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

DISCUSSION

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

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

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

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

At the hearing, the Parties agreed to continue the hearing.

The hearing Motion for Relief from the Automatic Stay is 1:30 p.m. March 25, 2025.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Citibank, N.A., not in its individual capacity but solely as Owner Trustee of New Residential Mortgage Loan Trust 2020-RPL1 as serviced by NewRez LLC d/b/a Shellpoint Mortgage Servicing (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Relief from the Automatic Stay is
XXXXXXX.

**U.S. BANK 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 18, 2025. By the court’s calculation, 35 days’ notice was provided. 28 days’ notice is required.

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

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

U.S. Bank National Association, not in its individual capacity, but solely in its capacity as trustee of Citigroup Mortgage Loan Trust 2022-A (“Movant”) seeks relief from the automatic stay with respect to Rhonda Faye Roberts’ (“Debtor”) real property commonly known as 7844 Casa Bella Way, Citrus Heights, California 95610 (“Property”). Movant has provided the Declaration of Roselia Chavez to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 69.

Movant argues Debtor has not made approximately four post-petition payments each in the amount of \$1,588.64. Decl. ¶ 7, Docket 69.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 10, 2025. Docket 74. Debtor points out the fact that a Modified Plan was confirmed in the case on February 28, 2025. Docket 72. The Modified Plan cures the post-petition delinquency and Debtor is current under the Modified Plan.

CHAPTER 13 TRUSTEE’S OPPOSITION

David Cusick, the Chapter 13 Trustee (“Trustee”), filed an Opposition on March 11, 2025. Docket 75. Trustee also informs the court that Debtor is current under the terms of the confirmed Modified Plan and Trustee is making disbursement to Movant, so there is no cause for relief from the stay.

DISCUSSION

11 U.S.C. § 362(d)(1): Deny Relief

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

In this case, there is no cause for relief. Debtor became delinquent in post-petition payments in 2024, but a Modified Plan was confirmed in February of 2025. The Modified Plan addresses the post-petition delinquency, and Debtor is current under the terms of the Modified Plan. The post-petition delinquency was the sole basis for relief from stay. Therefore, the Motion is denied without prejudice.

At the hearing, **XXXXXXX**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by U.S. Bank National Association, not in its individual capacity, but solely in its capacity as trustee of Citigroup Mortgage Loan Trust 2022-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.