

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

March 27, 2025 at 10:00 a.m.

1. [25-20009-E-7](#)
[SC-2](#)

CONSUELO ARIAS
Bryan Smith

**MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
TO CONFIRM TERMINATION OR
ABSENCE OF STAY
3-11-25 [\[27\]](#)**

**DEBTOR DISMISSED: 01/21/25
NEIGHBOR TO NEIGHBOR HOMES,
LLC 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, Chapter 7 Trustee, and Office of the United States Trustee on March 11, 2025. By the court's calculation, 16 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, -----
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**The Motion for Relief from the Automatic Stay is ~~granted, the court confirming~~
~~there was no automatic stay in effect when Movant purchased the subject~~
~~property in a foreclosure sale.~~**

March 27, 2025 at 10:00 a.m.

Neighbor to Neighbor Homes, LLC (“Movant”) moves this court for an order either granting it relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (2), or, in the alternative, dismissing this Motion as moot finding that Movant’s action did not violate the automatic stay.¹

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).

Consistent with this court’s repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, applied the general pleading requirements enunciated by the United States Supreme Court to the pleading with particularity requirement of Bankruptcy Rule 9013. *See In re Weatherford*, 434 B.R. 644, 646 (N.D. Ala. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal* to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court. *See* 556 U.S. 662 (2009).

Federal Rule of Bankruptcy Procedure 9013 incorporates the “state with particularity” requirement of Federal Rule of Civil Procedure 7(b), which is also incorporated into adversary proceedings by Federal Rule of Bankruptcy Procedure 7007. Interestingly, in adopting the Federal Rules of Civil Procedure and of Bankruptcy Procedure, the Supreme Court endorsed a stricter, state-with-particularity-the-grounds-upon-which-the-relief-is-based standard for motions rather than the “short and plain statement” standard for a complaint.

Law and motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law and motion process. These include sales of real and personal property, valuation of a creditor’s secured claim, determination of a debtor’s exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from the automatic stay, motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact to other parties in a bankruptcy case and to the court, holding,

The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and

¹There is a related *Ex Parte* Motion to Extend the Automatic Stay, Docket Control Number GBS-01. The court will be addressing that Motion by separate Order.

every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

In re Weatherford, 434 B.R. at 649–50; *see also In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ind. 2009) (holding that a proper motion must contain factual allegations concerning requirements of the relief sought, not conclusory allegations or mechanical recitations of the elements).

The courts of appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St. Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the pleading with particularity requirement in a motion, stating:

Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial, “shall be made in writing, [and] *shall state with particularity the grounds therefor*, and shall set forth the relief or order sought.” The standard for “particularity” has been determined to mean “reasonable specification.”

Martinez v. Trainor, 556 F.2d 818, 819–20 (7th Cir. 1977) (citing 2-A JAMES WM. MOORE ET AL., MOORE’S FEDERAL PRACTICE ¶ 7.05 (3d ed. 1975)).

Not stating with particularity the grounds in a motion can be used as a tool to abuse other parties to a proceeding, hiding from those parties grounds upon which a motion is based in densely drafted points and authorities—buried between extensive citations, quotations, legal arguments, and factual arguments. Noncompliance with Federal Rule of Bankruptcy Procedure 9013 may be a further abusive practice in an attempt to circumvent Bankruptcy Rule 9011 by floating baseless contentions to mislead other parties and the court. By hiding possible grounds in citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were “mere academic postulations” not intended to be representations to the court concerning any actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such “postulations.”

Grounds Stated in Motion

Movant has not provided any grounds, merely requesting relief in the prayer. There are no facts pleaded in the Motion to support the relief requested.

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 9014-1(d)(4). The court has not waived that Local Rule for Movant.

DISCUSSION

The operative facts relevant to the Motion are found in the Memorandum of Points and Authorities at Docket 31 and the evidence in support. Decl., Docket 30; Ex., Docket 29. The evidence shows that, on January 2, 2025 at 1:46 p.m., Movant purchased the real property commonly known as 2801 Marilona Drive, Sacramento, Ca 95821 (“Property”) in a foreclosure sale. Movant has included the Notice of Bankruptcy Case Filing in these pleadings as Exhibit 2, Docket 29, showing that Consuelo C. Arias’ (“Debtor”) case was filed on January 2, 2025 at 3:24 p.m., approximately an hour and a half after the foreclosure sale occurred. The bankruptcy case was dismissed on January 21, 2025, for Debtor failing to timely file documents, including Schedules and Statement of Financial Affairs. Notice of Incomplete Filing and Intent to Dismiss, and Order; Dckts 5, 19.

According to Movant’s Memorandum, Movant took no action against Debtor whatsoever during the time period the case was filed and ongoing from January 2, 2025 at 3:24 p.m. through January 21, 2025. Mem. 2:6-28, Docket 31. 11 U.S.C. § 362(a) only operates as a stay against a person who has filed bankruptcy.

As the foreclosure sale occurred prior to filing, and as Movant took no actions against Debtor from the time of filing through dismissal of the case, there were no violations of the automatic stay. Therefore, the Motion is granted to confirm that there was no automatic stay in effect when the foreclosure sale occurred, with no further relief granted.

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 filed by Neighbor to Neighbor Homes, 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 that the Motion is granted and this court confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were not in effect when Movant purchased the real property commonly known as 2801 Marilona Drive, Sacramento, Ca 95821 (“Property”) in a foreclosure sale held on January 2, 2025, with Movant purchasing the Property at 1:46 p.m.

MICHELLE SANTOS 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 7 Trustee, and Office of the United States Trustee on October 18, 2024. By the court's calculation, 48 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 27, 2025 Hearing

The court continued this Motion as counsel for the Trustee reported at the prior hearing that negotiations are ongoing related to prosecution of the avoidance actions and the Movant has retained bankruptcy counsel. A review of the Docket on March 18, 2025 reveals nothing new has been filed with the court.

At the hearing, XXXXXXX

THE MOTION

Michele Santos ("Movant") seeks relief from the automatic stay to allow *Michelle Santos v. Bohr S. Bhandal, Paramjit Kaur, Auto Financial Group, Inc., Richa Singh*; Superior Court of California, County of Santa Clara; Case No. 23CV421935 (the "State Court Litigation") to be concluded. Movant has provided the Declaration of Julia L. Covello to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Bohr Singh Bhandal ("Debtor").

The Motion states a long series of proceedings and disputes between Movant, the Debtor, and Third-Parties. The court summarizes this history as follows:

- A. On June 1, 2020, Movant and Debtor entered into a purchase agreement in which Movant sold her business to Debtor. Debtor then defaulted in the payments due to Movant. Motion, p. 2:3-7; Dckt. 14.
- B. Movant commenced an Arbitration against the Debtor in September 2020. The Arbitration Award was issued to Movant for breach of contract and unjust enrichment in September 2021. The total Arbitration award, including fees and costs, totaled (\$614,912.42). *Id.*; p. 2:8-19.
- C. The Arbitration Award was confirmed in a Judgment issued in *Santos v. Bhandal*, California Superior Court for Santa Clara County, Case No. 21CV38675 (“State Court Judgment”) on July 1, 2022. Abstracts of Judgment were issued, as a well as a personal property judgment lien. *Id.*; p. 2:20-25.
- D. On September 17, 2021, two weeks after the Arbitration Award, Debtor’s ex-wife, Parmjit Kaur, filed for dissolution of their marriage. A marital settlement agreement was executed on November 3, 2021. The marital settlement agreement includes statements concerning the liabilities of Debtor and his ex-wife, as well as how various assets were held prior to the martial settlement agreement. *Id.*; p. 2:24-3:15.
- E. The dissolution of marriage was not disclose in discovery conducted in the State Court Litigation. *Id.*; 3:16-23.
- F. Movant attempted to execute on various bank accounts of Debtor, which the ex-wife then asserted that she separately owned. *Id.*; p. 4:4-25.
- G. On August 31, 2024, filed a second State Court action, asserting claims under the Uniform Voidable Transfers Act, California Superior Court for Santa Clara County, Case No. 23CV421935 (“State Court Voidable Transfer Action”). Restraining orders and preliminary injunctions were issued in the State Court Voidable Transfer Action. *Id.*; 5:1-23.
- H. On May 13, 2024, the State Court Voidable Transfer Action was amended to add the Debtor’s Daughter (“Daughter”) as a Defendant. *Id.*; 6:4-9.
- I. Debtor filed Bankruptcy on August 15, 2024.
- J. Debtor has failed to appear at various enforcement and discovery proceedings in the two State Court actions.

In the Motion, Movant states:

Here, [Movant] and [Debtor] are litigating a fraudulent transfer case in the Superior Court of California, County of Santa Clara. This Bankruptcy Court must abstain from adjudication the fraudulent transfer case and lift the stay to allow it to proceed to judgment. Otherwise - it will merely “help” [Debtor’s] scheme to avoid satisfaction of the Arbitration Award and fraudulently transfer assets.

Id.; p. 7:24-28.

Here, it is asserted that Debtor quit claimed Debtor's interest in real property located in Dublin, California to his ex-wife on March 26, 2021, and such is the subject of the State Court Voidable Transfer Action. It is further asserted that such property is subject to the judgment lien of Movant. This transfer is approximately three years prior to the filing of the current Bankruptcy Case.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on November 22, 2024. Dckt. 21. Debtor opposes any relief against him in an attempt to impose personal liability on Debtor, Debtor asserting the deadline to file an adversary proceeding was on November 18, 2024. No adversary was ever filed. Debtor does not appear to oppose relief from stay to allow the State Court Litigation to proceed, but does object to any finding of personal liability.

MOVANT'S REPLY

Movant filed a Reply on November 27, 2024. Docket 24. Movant states that her arguments have not been sufficiently rebutted, and relief should be granted. Further, 28 U.S.C. § 1334(c) permits this court's abstention in the State Court Litigation dispute.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8–9 (B.A.P. 9th Cir. May 23, 2016). To determine “whether cause exists to allow litigation to proceed in another forum, ‘the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.’” *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int’l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. *See Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass’n v. Sanders (In re Santa Clara Cty. Fair Ass’n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

State Court Proceedings and Bankruptcy Discharge

The court has before it the State Court Judgment and the State Court Voidable Transfer Action through which Movant is seeking to enforce its State Court Judgment.

As Debtor points out, he was granted a discharge in this Bankruptcy Case on November 26, 2024. Order of Discharge; Dckt. 23. Movant is listed as a creditor with an unsecured claim on Schedule E/F. Dckt. 1 at 21.

On the Statement of Financial Affairs, in response to Question 9, whether within one year prior to the August 15, 2024 filing of the current Bankruptcy Case the Debtor was a party of any lawsuit, court action, or administrative proceeding, Debtor responded “No.” Dckt. 1 at 32. However, Debtor was a party to the State Court Action in which the Judgment was entered and is stated to be a party in the State Court Voidable Transfer Action (See Motion, p. 5:1-5; Dckt. 14; Dec. ¶ 18; Dckt. 17).

No adversary proceeding has been commenced by Movant for a determination that the Debtor’s obligation to her should not be discharged. The deadline for filing such an complaint expired on November 18, 2024. Notice of Chapter 7 Case, ¶ 9; Dckt. 6.

The automatic stay as to the Debtor terminated upon the entry of the discharge. 11 U.S.C. § 362(c)(2)(C). However, this does not terminate the automatic stay as to property of the Bankruptcy Estate.

With the termination of the stay as to the Debtor upon entry of the discharge, the discharge injunction (protecting a debtor personally, exempt assets of a debtor, and future acquired assets of a debt) goes into effect. 11 U.S.C. § 524(a). However, this does not terminate any lien rights of a creditor or the rights of a trustee and bankruptcy estate to recover properties for the bankruptcy estate.

Congress provides in 11 U.S.C. § 544(a) the rights of a bankruptcy trustee to avoid transfers, including the rights that a creditor has to avoid transfers made by a debtor. See 5 Collier on Bankruptcy (16th Edition) ¶ 544.06.

At this juncture, it appears that to the extent that the right to avoid transfers made by Debtor, that power and right rests with the Bankruptcy Trustee in this Bankruptcy Case. While the Trustee has filed a Report of No Distribution (September 18, 2024 Docket Entry Report), it may well be that the Trustee was not aware of the State Court Voidable Transfer Action and the rights of a creditor to avoid such a transfer.

If the Trustee wants to transfer such rights to Movant, the Trustee may seek such authorization. If Movant and Trustee strike an agreement for the prosecution of such an action, again, the Trustee may seek such authorization.

At the hearing, the Trustee and Movant requested that the hearing be continued so they can address the issues relating to avoidance actions and rights.

The hearing is continued to 10:00 a.m. on February 13, 2024.

February 13, 2025 Hearing

The court continued this Motion to allow Trustee an opportunity to review the claims and decide whether the Trustee would be exercising the Estate’s rights to pursue avoidance actions.

Trustee filed a Status Report on February 6, 2025. Docket 40. Trustee states that as the court correctly surmised, Trustee was unaware of the avoidance actions occurring in state court. Trustee intends

to asserts the Estate's rights with respect to the claims, so Trustee requests the Motion be denied or at least continued to allow a deal to be struck. *Id.* at ¶ 7.

At the hearing, counsel for the Trustee reported that negotiations are ongoing and the Movant has retained bankruptcy counsel.

The Movant agreed to the continuance of the hearing. The hearing on the Motion for Relief from the Automatic Stay is continued to 10:00 a.m. on March 27, 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 Michele Santos ("Movant") having been presented to the court, Movant and the Trustee jointly requesting the hearing be continued, Movant agreeing to the continuance, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

FINAL RULINGS

3. [24-24542-E-11](#) **MONALISA SILAPAN** **MOTION FOR RELIEF FROM**
[RPM-1](#) **Mark Wolff** **AUTOMATIC STAY**
2-20-25 [\[85\]](#)

**MERCEDES-BENZ FINANCIAL
SERVICES USA, LLC VS.**

SUBCHAPTER V

Final Ruling: No appearance at the March 27, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, creditors holding the twenty largest unsecured claims, Chapter 11 Subchapter V Trustee, and Office of the United States Trustee on February 20, 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). 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.

Mercedes-Benz Financial Services, USA LLC (“Movant”) seeks relief from the automatic stay with respect to an asset identified as a 2022 Mercedes-Benz GLC300W, VIN ending in 4071 (“Vehicle”). The moving party has provided the Declaration of Sofia Taylor to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Monalisa Silapan (“Debtor”). Decl., Docket 87.

Movant argues Debtor has not made four post-petition payments, with a total of \$4,497.72 in post-petition payments past due. Declaration ¶ 5, Docket 87.

Debtor filed a Non-Opposition on February 26, 2025. Docket 98.

J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. D, Docket 90. 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 \$40,720.07 (Declaration ¶ 6, Docket 87), while the value of the Vehicle is determined to be \$40,720.07 as stated on the J.D. Power Valuation Report. Ex. D, Docket 90.

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.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property’s value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988).

Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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.

[Federal Rule of Bankruptcy Procedure 4001(a)(3)]
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, if there is no opposition, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 3:4-5.

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 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 Mercedes-Benz Financial Services, USA LLC (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2022 Mercedes-Benz GLC300W, VIN ending in 4071 (“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 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.

BANK OF AMERICA, N.A. VS.

Final Ruling: No appearance at the March 27, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, parties requesting special notice, and Office of the United States Trustee on February 14, 2025. 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 granted.

Bank of America, N.A. (“Movant”) seeks relief from the automatic stay with respect to Angella Ann Barr’s (“Debtor”) real property commonly known as 2660 Kadema Dr, Sacramento, CA 95864-6914 (“Property”). Movant has provided the Declaration of Marcia Aida Thomas to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 30.

Movant argues Debtor has not made four total payments with at least one missed post-petition payment with a total of \$12,293.56 in arrearage. Declaration 3:7-12, Docket 30.

Debtor filed a Non-Opposition on February 28, 2025. Docket 36. The Chapter 7 Trustee also filed a Non-Opposition on March 3, 2025.

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 \$543,770.20 (Declaration 2:26, Docket 30), while the value of the Property is determined to be \$1,187,500.00, as stated in Schedules A/B and D 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).

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.

Federal Rule of Bankruptcy Procedure 4001(a)(3) 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, based on Debtor ceasing to make payments and intending to surrender the Property, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 4:10-14.

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 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 Bank of America, 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 granted, and 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 2660 Kadema Dr, Sacramento, CA 95864-6914 (“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 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.

CARRINGTON MORTGAGE
SERVICES, LLC VS.

Final Ruling: No appearance at the March 27, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, creditors, and Office of the United States Trustee on February 20, 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). 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.

Carrington Mortgage Services, LLC (“Movant”) seeks relief from the automatic stay with respect to Mathew Blaine Cragun and Keri Anne Anglin’s (“Debtor”) real property commonly known as 6453 Topaz Dr, Pollock Pines, CA 95726-9733 (“Property”). Movant has provided the Declaration of Melissa Schultz to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 25.

Movant argues Debtor has not made eight total payments with at least two missed post-petition payments with a total of \$28,946.80 in arrearage. Declaration 3:1-5, Docket 25.

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 \$476,732.01 (Declaration 3:5, Docket 25), while the value of the Property is determined to be \$455,900.00, as stated in Amended Schedules A/B and D filed by Debtor. Am. Schedule A/B at 4, Docket 12.

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.

11 U.S.C. § 362(d)(2)

A debtor has no equity in property when the liens against the property exceed the property’s value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988).

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). This being a Chapter 7 case, the Property is *per se* not necessary for an effective reorganization. *See Ramco Indus. v. Preuss (In re Preuss)*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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.

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 Carrington Mortgage Services, LLC (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and 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 6453 Topaz Dr, Pollock Pines, CA 95726-9733 (“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.

No other or additional relief is granted.