

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

April 1, 2014 at 9:31 A.M.

1. [11-36112](#)-B-13 GEOFFREY MALISKA MOTION FOR RELIEF FROM
GAR-1 AUTOMATIC STAY
2-25-14 [[126](#)]
NATIONSTAR MORTGAGE, LLC VS.

Tentative Ruling: The motion is dismissed as moot. Section 2.11 of the debtor's chapter 13 plan, filed July 16, 2012, (Dkt. 119), confirmed by order entered October 17, 2012 (Dkt. 125), already provides relief from the automatic stay for this Class 4 claim regarding real property located at 1885 Apalachee Drive, South Lake Tahoe, California (APN 033-705-11-100). The movant already has the relief it seeks by this motion.

The court will issue a minute order.

2. [13-35828](#)-B-13 AARON/JESSIE PLUBELL CONTINUED MOTION FOR RELIEF
KAZ-1 FROM AUTOMATIC STAY
2-10-14 [[19](#)]
JPMORGAN CHASE BANK, N.A.
VS.

Tentative Ruling: The opposition filed by the debtors is sustained. The motion is denied.

The movant seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to proceed with foreclosure on the debtors' residence located at 4240 Carlson Way, Diamond Springs, California (APN 097-020-05-100) (the "Property"). The movant alleges that the debtors have failed to make two pre-petition installment payments and one post-petition installment payment on the obligation secured by the Property, and alleges that the debtors do not have an equity in the Property and that the Property is not necessary to an effective reorganization.

Relief under § 362(d)(1) is not appropriate based on the evidence presented. Since the filing of the motion, the debtors have converted the bankruptcy case to chapter 13 and have filed a chapter 13 plan which proposes to treat the movant's secured claim in class 1, providing for payment of the ongoing monthly contract installment and a dividend to cure pre-petition arrears. Under these circumstances, cause for relief

from the automatic stay in a chapter 13 case requires that the movant show that the debtors are in default under the terms of the proposed chapter 13 plan. See LBR 4001-1(b). The movant has shown no such evidence.

Relief under § 362(d)(2) is also not appropriate. Although the debtors do not dispute that they did not have an equity in the Property, the property is their principal residence. The Property is necessary for the debtors' effective reorganization or rehabilitation in this chapter 13 case.

The court will issue a minute order.

3. [14-20568](#)-B-13 NATALIYA SHAYNYUK
SMR-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION TO
CONFIRM TERMINATION OR ABSENCE
OF STAY
3-4-14 [[22](#)]

BAINS FAMILY INVESTMENTS,
LLC VS.
CASE DISMISSED 3/17/14

Tentative Ruling: The motion is dismissed.

The motion is moot. The bankruptcy case was dismissed by order entered March 17, 2014 (Dkt. 38). The movant has the relief it seeks by this motion.

The court will issue a minute order.

4. [11-26587](#)-B-13 ROBERTO VARGAS AND
BHT-1 CECILIA RAMIREZ

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-5-14 [[50](#)]

U.S. BANK NATIONAL
ASSOCIATION VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.