

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 12, 2016 at 1:30 P.M.

1. 16-21352-C-13 LINDSAY CRAWFORD AND JOHN MOTION FOR RELIEF FROM
JFB-2 BLACKBURN AUTOMATIC STAY
Mark Shmorgan 3-22-16 [[28](#)]
SUSAN SCHUTTE-WORTHINGTON
VS.

Tentative Ruling: The Motion for Relief from Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the 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 offers 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.

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)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on March 22, 2016. Fourteen days' notice is required. That requirement was met.

The Motion for Relief from Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

The Motion for Relief From the Automatic Stay is
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Creditor, Susan Schutte-Worthington as Trustee of the Gorden A. Henning Trust, which owns the residential property, ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 506 Blackford Court, Sheridan, California (the "Property"). The moving party has provided the Declarations of Susan Schutte-Worthington and Janis Shoemaker to introduce evidence as a basis for Movant's contention that Lindsay Crawford and John Blackburn ("Debtor") do not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it is the owner of the Property.

The Schutte-Worthington Declaration provides that Debtors have been occupying the subject residence since December 15, 2015, based on promises to complete paperwork. Debtors are now past due in rent an unpaid security deposit in the amount of \$5,250, not having made a single rent payment since occupying the residence. Before Movant receive Notice of this bankruptcy, Movant served on Debtors on March 7, 2016, a three-day notice to quit or pay rent.

The Shoemaker Declaration speaks to a different real property location altogether and does not address the subject property, 506 Blackford Court, Sheridan, California, at all. Instead, the Shoemaker Declaration provides that Ms. Shoemaker is the property manager for American Dreams Property Management, which responsibilities include managing the rental property located at 4443 Auburn Blvd. Suite A, Sacramento, California, where Debtors maintain their business, Classic Tattoo Club. The declaration provides that Debtors rented the business from July 2013 for \$1,000 per month. Movant states that she served a three-day notice to pay or quit in November 2013, four more in 2014, three more in 2015, and one more in 2016. Judgement for eviction was served on debtors and the eviction process was underway in the County of Sacramento, which have been halted due to this bankruptcy.

DEBTORS' OPPOSITION

Debtors state that they are not sure on which property Movant is requesting relief, as both 506 Blackford Court (residential property) and 4443 Auburn Blvd. (commercial property) are mentioned in the motions and declarations.

Debtors oppose the relief requested in the Shoemaker Declaration with regard to the business property located at 4443 Auburn Blvd, Suite A, Sacramento, California. Debtors assert that they have provided for the defaulted rent payments on the business property in their chapter 13 plan, and state that maintenance of the property is necessary for an effective reorganization.

Debtors further object that Creditor did not served Debtors' attorney, Mark Schmorgan.

CHAPTER 13 TRUSTEE

On March 29, 2016, Chapter 13 Trustee, David Cusick, filed a statement of non-opposition.

DISCUSSION

The court agrees that Creditor's paper appear to be confusing upon first glance. The actual motion for relief seeks relief on the residential property, 506 Blackford Court, Sheridan, California. The Schutte-Worthington Declaration speaks to 508 Blackford Court, Wheatland, California. The Shoemaker Declaration

unexplicably makes statements as to business property 4443 Auburn Blvd. Suite A, Sacramento, California, without reference to the residential property at all. Moreover, Movant has not provided a properly authenticated or certified ownership papers to clarify to the court to which real property Movant seeks relief: 506 Blackford Court, Sheridan, California, 508 Blackford Court, Wheatland, California, OR 4443 Auburn Blvd. Suite A, Sacramento, California. While the court may assume it is to 508 Blackford Court, Sheridan, California, upon which Movant seeks relief, the court will not make a judicial determination based on assumptions. The Movant's papers provide no certainty and lack clarity as to what relief is requested to both the court and Debtors. At the very least, the moving papers display a carelessness on the part of Movant's attorney.

The court further notes that Movant has filed a Motion for Adequate Protection, set for hearing on the same date, presumably on the same property, for the 2:00 p.m. hearing.

The court will render its decision upon hearing the oral argument of the parties at hearing.

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 creditor, Susan Schutte-Worthington, ("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 stay is . .

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2. [10-28544](#)-E-13 RAJ SINGH
Pro Se

MOTION SEEKING APPROVAL FOR
EMERGENCY FILING
3-30-16 [[219](#)]

DEBTOR DISMISSED:
12/21/2011
CASE CLOSED: 05/09/2013

Tentative Ruling: The Motion for Seeking Approval for Emergency Filing was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the 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 offers 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.

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)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Chapter 13 Trustee, parties requesting special notice, and Office of the United States Trustee on March 30, 2016. Fourteen days' notice is required. That requirement was met.

The Motion for Seeking Approval for Emergency Filing was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

The Motion for Seeking Approval for Emergency Filing is . . .

Raj Singh request permission to file a bankruptcy and alleges that the IRS is pursuing illegal collection against him.

ISSUANCE OF A MINUTE ORDER

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion for Seeking Approval for
Emergency Filing filed by the Debtor(s) 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 Seeking
Approval for Emergency Filing is . . .
