

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

April 22, 2014 at 9:31 A.M.

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1.     [14-20010](#)-B-7     ALI/KELLY AKYUZ     MOTION FOR RELIEF FROM  
          APN-1   AUTOMATIC STAY  
  3-20-14 [[31](#)]  
  
TOYOTA LEASE TRUST VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance the court issues the following tentative ruling on the merits of the motion.

The motion is dismissed as moot. The automatic stay terminated as to the subject vehicle, a leased 2011 Nissan Altima (VIN 1N4AL2AP4BN507613) (the "Vehicle") at 12:01 a.m. on March 18, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtors' possessory interest in the Vehicle has from that date has no longer been property of the estate.

The debtors' petition was filed under chapter 7 on January 1, 2014. Pursuant to the applicable terms of 11 U.S.C. § 365(d)(1), the trustee may assume or reject an unexpired lease of personal property of the debtor within sixty (60) days after the order for relief. In this case, as of March 17, 2014, sixty days after the filing of debtor's petition, including the automatic enlargement of time afforded by Fed. R. Bankr. P. 9006(a)(1)(C), the chapter 7 trustee had not assumed or rejected the lease of the Vehicle. Pursuant to 11 U.S.C. § 365(p)(1), where a lease of personal property is rejected or not timely assumed by the trustee under section 362(d), the debtors' interest in the leased property is no longer property of the estate and the automatic stay under section 362(a) is automatically terminated. Thus, the automatic stay terminated with respect to the Vehicle at 12:01 a.m. on March 18, 2014, by operation of 11 U.S.C. § 365(p)(1), and the debtors' possessory interest in the Vehicle has from that date no longer been property of the estate. The movant already has the relief it seeks by this motion.

The court will issue a minute order.

2. [14-20111](#)-B-7 STEVEN/TANDRA WEBB  
PD-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-25-14 [[15](#)]

JPMORGAN CHASE BANK, N.A.  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on April 17, 2014, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 16004 Greenhorn Road, Grass Valley, California ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees or costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make fifteen (15) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

3. [13-27013](#)-B-7 JERRI/RONALD AUBRY  
MRG-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-20-14 [[46](#)]

DEUTSCHE BANK NATIONAL TRUST  
COMPANY VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 14859 Klamath Court, Magalia, California (APN 064-690-020-0) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make twelve (12) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution and a statement of non-opposition to the motion.

The court will issue a minute order.

4. [13-28915](#)-B-7 THOMAS/DANIELLE GRACE MOTION FOR RELIEF FROM  
BHT-1 AUTOMATIC STAY  
3-26-14 [[23](#)]  
  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance, because the debtors have filed a statement of intention to surrender the Property (as that term is defined herein) the court issues the following tentative ruling.

The motion is granted in part. The automatic stay is modified as to the debtor and the estate pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1711 Northfield Drive, Yuba City, California (APN 59-37C-034) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make twenty-nine (29) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtors have filed a statement of intention to surrender the Property.

The court will issue a minute order.

5. [14-22017](#)-B-7 DONNA PARKER MOTION FOR RELIEF FROM  
SW-1 AUTOMATIC STAY  
3-28-14 [[9](#)]  
  
WELLS FARGO BANK, N.A. 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.

6. [08-22725](#)-B-7 BAYER PROTECTIVE MOTION FOR RELIEF FROM  
GMF-1 SERVICES, INC. AUTOMATIC STAY  
4-7-14 [[894](#)]  
DRAGOLIJB CEKIC 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.

7. [13-24125](#)-B-7 DAVID/BONNIE FRANZONI MOTION FOR RELIEF FROM  
JHW-1 AUTOMATIC STAY  
3-19-14 [[68](#)]  
FORD MOTOR CREDIT COMPANY,  
LLC VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on March 13, 2014, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified as against the pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 2013 Ford Edge (VIN 2FMDK3KC1DBA64522) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make five (5) payments. Also, movant alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion.

The court will issue a minute order.

8. [14-22132](#)-B-7 NIINANA KWEKU MOTION FOR RELIEF FROM  
JHW-1 AUTOMATIC STAY  
3-24-14 [[10](#)]  
FIRST INVESTORS SERVICING  
CORPORATION VS.

**Tentative Ruling:** The motion is dismissed.

The motion is moot. The automatic stay terminated as to the movant's collateral consisting of a 2013 Nissan Sentra (VIN 3N1AB7AP2DL608391) (the "Collateral"), at 12:01 a.m. on April 3, 2014, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

The debtor did not file a compliant statement of intention with respect to the Collateral within the time allowed by 11 U.S.C. § 521(a)(2).

The court will issue a minute order.

9. [14-21034](#)-B-7 RICHARD FECTION MOTION FOR RELIEF FROM  
CJO-1 AUTOMATIC STAY  
3-28-14 [[15](#)]  
  
GREEN TREE SERVICING LLC 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.

10. [14-21355](#)-B-7 TODD/BETH BETTENCOURT MOTION FOR RELIEF FROM  
MJ-1 AUTOMATIC STAY  
3-12-14 [[10](#)]  
  
FIRST MORTGAGE CORPORATION  
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.

11. [10-41169](#)-B-7 BRENT/DEBRA NEWBOLD MOTION FOR RELIEF FROM  
MBB-1 AUTOMATIC STAY  
3-13-14 [[136](#)]  
  
BANK OF AMERICA, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on September 4, 2012, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 4522 Copperwood Drive, Granite Bay, CA 95746 (APN 466-590-035) (the "Property") and to obtain possession of the Property following the sale,

all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. The court awards no attorney's fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make thirty-seven (37) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

12. [14-22493](#)-B-7 LYUDMILA KHUDOY MOTION FOR RELIEF FROM  
RDN-1 AUTOMATIC STAY  
3-25-14 [[11](#)]  
  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part, and the automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in order to permit the movant to proceed with an unlawful detainer action against the debtor so that it may exercise its rights under applicable non-bankruptcy law in obtaining possession of the real property located at 4701 Mohamed Oaks Court, Sacramento, CA 95841 (the "Property"). The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

The movant alleges without dispute that it acquired title to the Property at a pre-petition non-judicial foreclosure sale, as evidenced by a Trustee's Deed Upon Sale (Dkt. 14, p.3) which was recorded in the official records of Sacramento County on December 4, 2013. Neither the estate nor the debtor has anything more than a mere possessory interest in the Property. The foregoing constitutes cause for relief from the automatic stay.

The court will issue a minute order.

13. [14-20295](#)-B-7 ANGELINA MIRELES MOTION FOR RELIEF FROM  
NLG-1 AUTOMATIC STAY  
3-13-14 [[16](#)]  
  
WILMINGTON TRUST, N.A. VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(1).

Because the debtor is in pro se, the court issues the following abbreviated tentative ruling.

The motion is granted in part, and the automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in order to permit the movant to proceed with an unlawful detainer action against the debtor and to exercise its rights under applicable non-bankruptcy law in obtaining possession of the real property located at 8528 Almondwood Lane, Stockton, CA 95210 (the "Property"). The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

The movant alleges without dispute that it acquired title to the Property at a pre-petition non-judicial foreclosure sale, as evidenced by a Trustee's Deed Upon Sale (Dkt. 19, p.3) which was recorded in the official records of San Joaquin County on July 31, 2013. Neither the estate nor the debtor has anything more than a mere possessory interest in the Property. The foregoing constitutes cause for relief from the automatic stay.

The court will issue a minute order.

14. [14-22095](#)-B-7 CONNIE DODGE  
VVF-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-17-14 [[10](#)]

AMERICAN HONDA FINANCE  
CORPORATION VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 2010 Honda Odyssey (VIN 5FNRL3H92AB065695) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

The movant alleges without dispute that the debtor has failed to make two (2) payments. The movant further alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtor has filed a statement of intention to surrender the Collateral. The chapter 7 trustee has filed a report of no distribution.

The court will issue a minute order.