

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

April 23, 2015 at 1:30 p.m.

1. [14-23471](#)-E-11 ERROL/SUZANNE BURR
[14-2184](#)
BURR ET AL V. SHINE ET AL

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
6-24-14 [[1](#)]

Final Ruling: No appearance at the April 23, 2015 Status Conference is required.

Plaintiffs' Atty: Steven A. White
Defendants' Atty:
Betsy S. Kimball [Raymond E. Shine]
unknown [Shine & Compton; Shine, Compton & Nelder]

Adv. Filed: 6/24/14

Answer:

Raymond E. Shine 7/7/14

Nature of Action:

Determination of removed claim or cause

Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Declaratory judgment

The Adversary Proceeding having been dismissed pursuant to the Stipulation of the Parties, **the Status Conference is removed from the Calendar.**

Notes:

Continued from 4/1/15 to allow the parties to dismiss this Adversary Proceeding or other resolution consistent with the Stipulation approved by the court in the Debtor's bankruptcy case.

April 23, 2015 at 1:30 p.m.

- Page 1 of 5 -

2. [14-23471](#)-E-11 ERROL/SUZANNE BURR
[14-2184](#) BSK-1
BURR ET AL V. SHINE ET AL

CONTINUED MOTION FOR REMAND
7-14-14 [[12](#)]

Final Ruling: No appearance at the April 23, 2015 hearing is required.

The Adversary Proceeding having previously been dismissed, **the Motion is dismissed as moot.**

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 Remand having been presented to the court, the Adversary Proceeding having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is dismissed as moot, the Adversary Proceeding having been dismissed.

3. [15-22780](#)-E-11 DAY & NIGHT TRUCK
TRAILER REPAIR INC.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-9-15 [[11](#)]

RIVER CITY PETROLEUM, INC.
VS.

Tentative Ruling: 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). 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 Debtor's Attorney on April 9, 2015. By the court's calculation, 14 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). 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 granted.
--

River City Petroleum, Inc. ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 850 Delta Lane, West Sacramento, California (the "Property"). FN. 1. The moving party has provided the Declaration of Jayson T. Javitz to introduce evidence as a basis for Movant's contention that Day & Night Truck trailer Repair, Inc. ("Debtor") do not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that its 100% shareholder, Leonard D. Robinson, is the owner of the Property in fee simple. Based on the evidence presented, Debtor would be at best tenant at sufferance. Movant commenced an

unlawful detainer action in California Superior Court, County of Yolo and received a judgment for possession, with a Writ of Possession having been issued by that court on March 25, 2015. Exhibit 1, Dckt. 11.

FN.1. The Movant is reminded that the Local Rules require the use of a new Docket Control Number with each motion. Local Bankr. R. 9014-1(c). Here the Movant failed to use a Docket Control Number. This is not correct. The court will consider the motion, but counsel is reminded that not complying with the Local Rules is cause, in and of itself, to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

Additionally, he Movant filed the notice, points and authorities, declaration and exhibits in this matter as one document. This is not the practice in the Bankruptcy Court. "Motions, notices, objections, responses, replies, declarations, affidavits, other documentary evidence, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents." Local Bankruptcy Rule 9004(a) and Revised Guidelines for the Preparation of Documents, ¶(3)(a). Counsel is reminded of the court's expectation that documents filed with this court comply with the Revised Guidelines for the Preparation of Documents in Appendix II of the Local Rules, as required by Local Bankruptcy Rules 9004(a), 9014-1(d)(1). This failure is cause to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

These document filing rules exist for a very practical reason. Operating in a near paperless environment, the motion, points and authorities, declarations, exhibits, requests for judicial notice, and other pleadings create an unworkable electronic document for the court. (Some running hundreds of pages.) It is not for the court to provide secretarial services to attorneys and separate an omnibus electronic document into separate electronic documents which can then be used by the court.

Movant has provided a properly authenticate copy of the recorded Trustee's Deed Upon Sale to substantiate its claim of ownership, the Judgment, and Writ of Possession. Based upon the evidence submitted, the court determines that there is no equity in the property for either the 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 *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 River City Petroleum, Inc., and its agents, representatives and successors, to exercise its rights to obtain possession and control of the real property commonly known as 850 Delta Lane, West Sacramento, California, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

The Movant has alleged adequate facts and presented sufficient evidence to support the court waving the 14-day stay of enforcement required under Rule 4001(a)(3).

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 River City Petroleum, Inc. ("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 automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow River City Petroleum, Inc. and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 850 Delta Lane, West Sacramento, California.

IT IS FURTHER ORDERED that the fourteen (14) day stay of enforcement provided in Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, is waived for cause shown by Movant.

No other or additional relief is granted.