



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: TUESDAY**  
**DATE: MAY 30, 2023**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be heard simultaneously: (1) **IN PERSON** in Courtroom 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

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## PRE-HEARING DISPOSITION INSTRUCTIONS

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### RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

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1. [23-20900](#)-A-7     **IN RE: JOSE/AMY LOPEZ**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-28-2023    [\[12\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.  
EXETER FINANCE LLC VS.

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2015 Ford Mustang

**Cause:** Delinquency - Payments 2.94; Amount \$2,229.83

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Exeter Finance, LLC seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a) asserting default in payments pursuant to the debtor's contractual obligation with the movant.

### **STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 2.94 payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted,

and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Exeter Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2015 Ford Mustang, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

2. [15-29103](#)-A-7     **IN RE: ROCK RIDGE PROPERTIES, INC.**  
[GB-2](#)

MOTION FOR CONTEMPT AND/OR MOTION FOR SANCTIONS  
5-2-2023    [\[176\]](#)

DENNIS HILL/ATTY. FOR DBT.  
VALERY LOUMBER/ATTY. FOR MV.

#### **Final Ruling**

The Motion is continued to June 12, 2023, at 10:30 a.m., by stipulation and Order filed May 17, 2023, ECF No. 188. If the motion has not been withdrawn, the parties shall file a joint status report not later than June 5, 2023.

3. [22-23305](#)-A-7     **IN RE: LISA/BRIAN WESCOTT**  
[SKI-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-30-2023    [24](#)

D. ENSMINGER/ATTY. FOR DBT.

SHERYL ITH/ATTY. FOR MV.

AMERICREDIT FINANCIAL SERVICES, INC. VS.; TRUSTEE NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** Continued from May 1, 2023

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Opposition:** Non-Opposition filed by Chapter 7 trustee

**Subject:** 2021 Chevrolet Silverado 3500 - Insurance Proceeds

**Discharge:** May 22, 2023

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

### **DEFAULT OF RESPONDENT**

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The hearing on this motion was continued from May 1, 2023, to allow the movant to serve the motion on creditors which filed a request for special notice. The motion and notice were served on those parties, ECF No. 34.

Americredit Financial Services, Inc. seeks an order from the automatic stay of 11 U.S.C. § 362(a).

The subject vehicle was declared a total loss following a collision on February 27, 2023. Movant seeks to apply insurance proceeds in satisfaction of the obligation owed by the debtor and secured by the subject vehicle. Funds, if any, in excess of the amount owed to the movant will be turned over to the Chapter 7 trustee.

The Chapter 7 trustee filed non-opposition to the motion on April 4, 2023.

## **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

### As to the Debtor

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

### As to the Estate

"[A]fter notice and a hearing," the court may terminate, annual, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Americredit Financial Services, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as insurance proceeds stemming from loss of 2021 Chevrolet Silverado 3500. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that any overage after payment in full of the obligation owed to movant shall be turned over to the Chapter 7 trustee.

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

4. [23-21205](#)-A-7     **IN RE: JERAMIE SABELMAN**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-24-2023    [\[19\]](#)

MICHAEL HAYS/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.  
MERCEDES-BENZ FINANCIAL SERVICES USA LLC VS.

#### **Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition filed by debtor

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2021 Mercedes Benz M2CV74

**Cause:** delinquent installment payments 3 months/\$3,377.01

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated*

by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Mercedes Benz Financial Services USA, LLC seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The debtor opposes the motion. Response, ECF No. 32. In the response the debtor requests a continued hearing to bring the payments on the subject vehicle current. The debtor's response is an unsworn statement by debtor's counsel and is unsupported by admissible evidence. As such it will be given no weight.

The movant has filed exhibits and a declaration in support of the motion. The movant contends and the exhibits show that the obligation secured by the subject vehicle is not owed by the debtor, but rather by Japanese Blossoms, Inc. Similarly, title to the vehicle is held in the name of Japanese Blossoms, Inc. Exhibits A, B, ECF No. 23.

Japanese Blossoms, Inc. is a restaurant in which the debtor holds an interest. It ceased operation on January 8, 2023. Statement of Financial Affairs, No. 27, ECF No. 30. The debtor claims an interest in the vehicle, Schedule A/B, ECF No. 18. The debtor claims no exemption in the subject vehicle, Schedule C, ECF No. 30.

#### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its



collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

While the debtor is not obligated to make debt payments to the moving party, those payments are delinquent pursuant to a loan contract with a third party that is secured by a security interest in the vehicle described above.

Japanese Blossoms, Inc. has defaulted on such loan with the moving party, and payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Mercedes Benz Financial Services USA, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2021 Mercedes Benz M2CV74, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [23-21309](#)-A-7     **IN RE: SHLANDA GIVENS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-1-2023     [\[17\]](#)

**Final Ruling**

As the fee has been paid in full, the order to show cause is discharged. The case will remain pending.

6. [23-20714](#)-A-7     **IN RE: HAN/CAROLYN SEO**  
[RAS-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-24-2023     [\[16\]](#)

JUSTIN KUNEY/ATTY. FOR DBT.  
THERON COVEY/ATTY. FOR MV.  
U.S. BANK TRUST NATIONAL ASSOCIATION VS.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** Continued from May 1, 2023

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 1900 Danbrook Drive 525, Sacramento, California

**Cause:** Delinquency - \$65,405.17

**Non-Opposition:** filed by Chapter 7 trustee

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The hearing on this motion was continued to allow the moving party to serve the notice and motion on creditors which filed a request for special notice. The movant has complied with the court's order.

U.S. Bank Trust National Association seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee filed a non-opposition to the motion on April 27, 2023.

**STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest

in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed is delinquent \$65,405.17 in payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

U.S. Bank Trust National Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 1900 Danbrook Drive 525, Sacramento, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

7. [23-20218](#)-A-7     **IN RE: ROGER MCENTYRE**  
[SW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-12-2023    [\[24\]](#)

STANLEY BERMAN/ATTY. FOR DBT.  
ANDREW STILL/ATTY. FOR MV.  
DEBTOR DISCHARGED: 4/26/23; CALIFORNIA PHYSICIANS SERVICE VS.

### **Tentative Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Petition Filed:** January 25, 2023

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Movant, California Physicians' Service, dba Blue Shield of California, seeks an order terminating and annulling the automatic stay so that it may cancel the debtor's health insurance coverage for failing to make monthly premium payments. The motion is unopposed.

Movant contends:

[T]he Debtor has failed to pay his Policy premium for the months of January and February. Blue Shield provided notice to the Debtor that he was provided a 30-day grace period in which he would remain covered, and that, to maintain further coverage, he would need to pay his unpaid premiums in the amount of \$1,328.08 by February 9, 2023. The Debtor failed to make this post-petition payment, the grace period expired, and Blue Shield cancelled the Debtor's policy on February 9, 2023. The Debtor's failure to make post-petition payments to Blue Shield sufficient to enable the Debtor to maintain his coverage constitutes "cause" to grant Blue Shield relief from the automatic stay.

Motion, 6:18-25, ECF No. 24.

Movant cancelled the insurance policy for lack of payment on February 9, 2023. Movant contends that it did not have notice of the bankruptcy filing when the policy was cancelled.

Blue Shield first learned of the Debtor's bankruptcy case on February 15, 2023, when it received the Notice of Bankruptcy Case in the mail.

Declaration of Maryann Lagura, 3:14-15, ECF No. 26.

### **STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

"Because there is no clear definition of what constitutes "cause," discretionary relief from the stay must be determined on a case by case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985), citing 2 *Collier Bankruptcy Manual* § 362.06 (3d ed. 1979).

The Bankruptcy Code also recognizes that certain circumstances require the court to respond to other interests and permits a flexible approach to the stay as the circumstances may require. Section 362(d)(1) authorizes the bankruptcy court broad discretion to grant relief from the automatic stay imposed under section 362(a) for "cause." Such relief may include "terminating, annulling, modifying, or conditioning such stay."

*In re Mila, Inc.*, 423 B.R. 537, 542 (B.A.P. 9th Cir. 2010), citing *Mataya v. Kissinger (In re Kissinger)*, 72 F.3d 107, 108-09 (9th Cir.1995).

Movant faces a clear risk of loss in that: 1) the debtor has breached the insurance agreements by not paying the pre-petition and post-petition premiums due; 2) under California Health and Safety Code Section 1365(a)(1), the movant is prohibited from refusing health care benefit services to the debtor until the agreements are terminated; and 3) unless relief from the stay is granted, the movant could be forced to

continue providing the monthly health insurance benefits without payment.

The debtor has missed pre-petition and post-petition payments due on required payments under its group health insurance plan. The resulting harm to movant if required to provide health insurance plan benefits without payment constitutes cause for stay relief.

#### **RETROACTIVE RELIEF**

"[S]ection 362 gives the bankruptcy court wide latitude in crafting relief from the automatic stay, including the power to grant retroactive relief from the stay." *In re Schwartz*, 954 F.2d 569, 572 (9th Cir. 1992). Furthermore, "[i]f a creditor obtains retroactive relief under section 362(d), there is no violation of the automatic stay . . . ." *Id.* at 573.

"In deciding whether 'cause' exists to annul the stay, a bankruptcy court should examine the circumstances of the specific case and balance the equities of the parties' respective positions. Under this approach, the bankruptcy court considers (1) whether the creditor was aware of the bankruptcy petition and automatic stay and (2) whether the debtor engaged in unreasonable or inequitable conduct." *In re Cruz*, 516 B.R. 594, 603 (B.A.P. 9th Cir. 2014).

In deciding whether to annul the stay retroactively, the court should consider the following factors:

1. Number of filings;
2. Whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors;
3. A weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser;
4. The Debtor's overall good faith (totality of circumstances test);
5. Whether creditors knew of stay but nonetheless took action, thus compounding the problem;
6. Whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules;
7. The relative ease of restoring parties to the status quo ante;
8. The costs of annulment to debtors and creditors;
9. How quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct;
10. Whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief;
11. Whether annulment of the stay will cause irreparable injury to the debtor;
12. Whether stay relief will promote judicial economy or other efficiencies.

*Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 25 (B.A.P. 9th Cir. 2003).

These factors should not be construed as a "scorecard" for arithmetic reasoning. *Id.* The court is aware that "[t]hese factors merely present a framework for analysis and [i]n any given case, one factor may so outweigh the others as to be dispositive." *In re Cruz*, 516 B.R. at 604 (internal quotation marks omitted).

The court has considered the pertinent factors for deciding whether to grant retroactive relief from stay. The movant was unaware of the bankruptcy filing on January 25, 2023, when it cancelled the insurance contract on February 9, 2023. Movant took prompt action in filing this motion for annulment of the stay.

The court finds that the factors discussed are dispositive on the question whether to grant retroactive relief from stay.

Relief is warranted under § 362(d)(1). Retroactive stay relief will be granted to the date of the petition. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief is ordered.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

California Physicians' Service dba Blue Shield of California's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated to allow the movant to proceed with its contractual and state law rights and remedies regarding the cancellation of health insurance benefit contracts with the debtor. Retroactive stay relief will be granted to the date of the petition. The 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [22-22020](#)-A-7     **IN RE: RICHARD SAUER**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: INVOLUNTARY PETITION  
8-15-2022    [[1](#)]

RICK MORIN/ATTY. FOR DBT.

**Final Ruling**

This matter is continued, by Supplemental Order, ECF No. 141, to June 12, 2023, at 10:30 a.m. for a status only hearing. This Status Conference is further continued for hearing and resolution to June 26, 2023, at 10:30 a.m. Order, ECF No. 131.

9. [22-22020](#)-A-7     **IN RE: RICHARD SAUER**  
[DB-1](#)

CONTINUED STATUS CONFERENCE RE: MOTION TO SET TRIAL DATE  
10-18-2022    [[23](#)]

RICK MORIN/ATTY. FOR DBT.

**Final Ruling**

This matter is continued, by Supplemental Order, ECF No. 144, to June 12, 2023, at 10:30 a.m. for a status only hearing. This Status Conference is further continued for hearing and resolution to June 26, 2023, at 10:30 a.m. Order, ECF No. 131.

10. [22-22020](#)-A-7     **IN RE: RICHARD SAUER**  
[DB-3](#)

CONTINUED MOTION TO APPOINT TRUSTEE  
4-3-2023    [[78](#)]

RICK MORIN/ATTY. FOR DBT.  
JAMIE DREHER/ATTY. FOR MV.

**Final Ruling**

This matter is continued, by Supplemental Order, ECF No. 146, to June 12, 2023, at 10:30 a.m. for a status only hearing. This Motion is further continued for hearing and resolution to June 26, 2023, at 10:30 a.m. Order, ECF No. 131.



11. [22-22020](#)-A-7     **IN RE: RICHARD SAUER**  
[RJM-3](#)

CONTINUED MOTION TO AMEND  
4-3-2023    [\[73\]](#)

RICK MORIN/ATTY. FOR DBT.

**Final Ruling**

This matter is continued, by Supplemental Order, ECF No. 148, to June 12, 2023, at 10:30 a.m. for a status only hearing. This Motion is further continued for hearing and resolution to June 26, 2023, at 10:30 a.m. Order, ECF No. 131.

12. [21-22830](#)-A-7     **IN RE: RANDALL HAYASHI**  
[NBF-2](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,  
ACCOUNTANT(S)  
4-24-2023    [\[102\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 11/16/21

**Final Ruling**

**Application:** Allowance of Final Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

**Compensation:**    \$1,870.00

**Reimbursement of Expenses:**    \$118.80

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**COMPENSATION AND EXPENSES**

In this Chapter 7 case, Gabrielson & Company, accountant for the trustee, has applied for an allowance of first and final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,870.00 and reimbursement of expenses in the amount of \$118.80.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$1,870.00 and reimbursement of expenses in the amount of \$118.80.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

13. [21-21537](#)-A-7     **IN RE: NELYA FEYGIN**  
[DNL-3](#)

MOTION TO EMPLOY NOAH GRYNBERG AS SPECIAL COUNSEL  
4-18-2023    [\[46\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.  
DEBTORS DISCHARGED: 8/2/21

### **Final Ruling**

**Motion:** Employ Special Counsel

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Prepared by moving party

**Special Counsel:** Noah Grynberg

**Subject of Representation:** Rent Dispute, State Court Action,  
Superior Court of California, County of Los Angeles, Case No.  
BS174592

**Employment:** 11 U.S.C. §§ 327, 328

**Terms of Employment:** tiered contingent; 33% of net recovery if made  
30 days before trial; and 40% of net recovery if made within 30 days  
of trial

Unopposed applications are subject to the rules of default. Fed. R.  
Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c).  
Written opposition to this motion was required not less than 14 days  
before the hearing on this motion. LBR 9014-1(f)(1)(B). None has  
been filed. The default of the responding party is entered. The  
court considers the record, accepting well-pleaded facts as true.  
*TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir.  
1987).

J. Michael Hopper, chapter 7 trustee, seeks an order approving Noah  
Grynberg's employment to represent the estate on a contingent fee  
basis with respect to the matters described herein. Noah Grynberg  
has previously represented the debtor(s) with respect to the same  
matter.

Prior to the date of the petition, the debtor(s) filed an action  
disputing rent increases in: State Court Action, Superior Court of  
California, County of Los Angeles, Case No. BS174592; that cause of  
action is property of the estate. 11 U.S.C. § 541.

The attorneys have significant firsthand experience with this case.  
The trustee deems it appropriate that Proposed Special Purpose  
Counsel be employed. See Motion, 3:9-11, ECF No. 46.

Proposed Special Counsel proposes to divide the contingency fee on  
the same terms previously agreed to with the Debtor: 33% of the net  
recovery if made up to 30 days before trial, or 40% of the net  
recovery if made within 30 days of trial. See Exhibit B, ECF No. 50.

## EMPLOYMENT

Chapter 7 trustees may employ counsel to represent the estate. 11 U.S.C. § 327. Employment may be for all purposes or for a limited purpose. The burden of proving eligibility is on the applicant. *In re Big Mac Marine, Inc.*, 326 B.R. 150, 154 (8th Cir. BAP 2005). Where the trustee seeks to employ special counsel that has previously represented the debtor employment is governed by § 327(e). That section provides:

The trustee, with the court's approval, may employ, for a specified special purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

11 U.S.C. § 327(e).

In most instances, "in the best interest of the estate" means reasonably likely to recover non-exempt assets that may be administered for creditors, 11 U.S.C. § 704(a)(1). Proposed special counsel must not hold or represent "any adverse interest" to the debtor or to the estate "with respect to the matter on which the attorney is to be employed." Adverse interest means "the (1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or (2) possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate." *In re AFI Holding, Inc.*, 355 B.R. 139, 148-49 (9th Cir. BAP 2006), *aff'd and adopted*, 530 F.3d 832 (9th Cir. 2008). See *In re Grant*, 507 B.R. 306, 308-10 (Bankr. E.D. Cal. 2014) (holding that there is adverse interest where the attorney to be employed asserts a charging lien—at least if avoidable, or where the debtor argues that the proceeds of the action are exempt under applicable law).

Where the applicant wishes to define the terms of employment it may also seek approval under § 328. The section provides:

The trustee...with the court's approval, may employ or authorize the employment of a professional person under section 327...on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.

11 U.S.C. § 328(a).

The court will approve the motion. The court authorizes employment of Noah Grynberg as special purpose counsel pursuant to 11 U.S.C. § 327. The court further authorizes payment of a contingency fee of 33% of the net recovery if made up to 30 days before trial, or 40% of the net recovery if made within 30 days of trial. Compensation and reimbursement of expenses shall only be paid upon the court's approval of a motion seeking approval of the settlement and payment of proposed special purpose counsel. Fed. R. Bankr. P. 9019.

The trustee shall submit an order granting the motion which is consistent with this ruling.

14. [23-20737](#)-A-7     **IN RE: FRANKIE GAMBOA**  
[RAS-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-30-2023    [\[21\]](#)

CHRISTOPHER LANGLEY/ATTY. FOR DBT.  
FANNY WAN/ATTY. FOR MV.  
U.S. BANK TRUST NATIONAL ASSOCIATION VS.

#### **Final Ruling**

**Motion:** Stay Relief

**Notice:** Continued from May 1, 2023

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 733 Rocky Point Cove, Suisun City, California

**Cause:** Delinquency - \$88,117.69/35 payments

**Non-Opposition:** filed by Chapter 7 trustee

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The hearing on this matter was continued to allow the movant to serve parties who have filed a request for special notice. The movant has filed and served the appropriate parties with notice of the motion.

U.S. Bank Trust National Association seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee filed a non-opposition to the motion on April 27, 2023.

## **STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 35 payments due on the debt secured by the moving party's lien and is delinquent in the amount of \$88,117.69. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

U.S. Bank Trust National Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 733 Rocky Point Cove, Suisun City, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

15. [22-21649](#)-A-7     **IN RE: MARY KATTENHORN**  
[BLL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-21-2023    [\[30\]](#)

RICHARD HALL/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 10/11/22;    MARY KATTENHORN VS.; RESPONSIVE  
PLEADING

**No Ruling**

16. [22-21649](#)-A-7     **IN RE: MARY KATTENHORN**  
[BPC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-2-2023    [\[37\]](#)

RICHARD HALL/ATTY. FOR DBT.  
ANTHONY NAPOLITANO/ATTY. FOR MV.  
DEBTOR DISCHARGED: 10/11/22; BMO HARRIS BANK N.A. VS.;  
RESPONSIVE PLEADING

**No Ruling**

17. [20-25064](#)-A-7     **IN RE: WILLIAM STELL**  
[MOH-1](#)

MOTION FOR COURT TO ORDER THE FIRE VICTIM TRUST TO TURN OVER  
FUNDS TO THE CHAPTER 7 TRUSTEE OR DEBTOR'S FIRE VICTIM  
ATTORNEY  
5-15-2023    [\[37\]](#)

MICHAEL HAYS/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 2/16/21

**No Ruling**

18. [23-20473](#)-A-7     **IN RE: MICHAEL/DOREEN LATIMER**  
[KMM-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-28-2023    [\[21\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.  
FIFTH THIRD BANK VS.

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2004 FLEETWOOD TERRA 26Q Motorhome

**Cause:** delinquent installment payments 2 months/\$558.28

**Opposition:** Non-opposition filed by Chapter 7 trustee

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Fifth Third Bank seeks an order for relief from the automatic stay of 11 U.S.C § 362(a). The hearing on this motion was continued to allow the movant to serve notice of the motion on creditors which have filed a request for special notice. The movant has complied with the court's order.

The Chapter 7 trustee filed non-opposition to the motion on May 21, 2023. The debtors filed a Statement of Intention at the inception of the case which indicates their intent to surrender the subject vehicle. Statement of Intention, ECF No. 1.

### **DEFAULT OF RESPONDENT**

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated* by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R.



Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value *after* the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtors are obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtors have defaulted on such loan with the moving party, and payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Fifth Third Bank's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2004 FLEETWOOD TERRA 26Q Motorhome, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

19. [21-22496](#)-A-7     **IN RE: LILLIAN/ISAGANI SISAYAN**  
[DNL-26](#)

MOTION TO ABANDON  
4-25-2023    [[495](#)]

STEPHAN BROWN/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.

**No Ruling**