

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

July 1, 2025 at 1:30 p.m.

1. 24-24297 -E-13	LATASHA RICHARDSON	CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY 4-21-25 [101]
RAS-1	Peter Macaluso	
U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION VS.		

Tentative Ruling: 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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on April 21, 2025. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion for Relief from the Automatic Stay is xxxxxxx.

July 1, 2025 Hearing

The court continued the hearing on this Motion because counsel for the Trustee reported that the Debtor was current on the Plan payments and the adequate protection payments are being made to Creditor. Debtor had not yet sent the initial loan modification request to Creditor, but stated at the prior hearing she will do so.

The parties requested that the court continue the hearing a month to allow Debtor time to diligently move forward with requesting a loan modification. A review of the Docket on June 26, 2025 reveals nothing new has been filed with the court.

At the hearing, **XXXXXXX**

REVIEW OF MOTION

U.S. Bank Trust Company, National Association, as Trustee, as successor-in-interest to U.S. Bank National Association, as trustee, on behalf of the holders of CSAB Mortgage-Backed Pass-Through Certificates, Series 2007-1 ("Movant") seeks relief from the automatic stay with respect to Latasha Denell Richardson's ("Debtor") real property commonly known as 9980 Wyland Drive, Elk Grove, California 95624 ("Property"). Movant has provided the Declaration of Rosella Chavez to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 104.

Movant further seeks relief from the co-debtor stay of 11 U.S.C. § 1301(c) as to the co-buyer, Ralph Lee Shelton.

Movant argues Debtor has not made three post-petition payments in the amount of \$3,858.95 each. Declaration ¶ 7, Docket 104.

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response on May 6, 2025. Docket 107. Trustee states that Debtor is slightly delinquent in plan payments in the amount of \$1,350.00. *Id.* at 1:26. Trustee does not oppose the Motion.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on May 13, 2025. Docket 110. Debtor states there is no cause for relief because she is not delinquent in plan payments. Debtor offers no evidence in support. The Opposition stated is that:

B. DISPUTED FACTS

No Cause Exists for Relief Sought, as the Debtor is current with Plan payments.

...

However, the debtor being current with what has come due thru the Trustee, are not (3) months in arrears, and, as such In re Ellis is not applicable, as "cause" does not exist at this time.

Opposition, p. 1:25 ½ -26 ½, p.2:5-8; Dckt. 110.

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$1,057,767.63 (Declaration ¶ 8, Docket 104), while the value of

the Property is determined to be \$1,002,000.00, as stated in Schedules A/B and D filed by Debtor. Schedule A/B at 3, Docket 12.

11 U.S.C. § 362(d)(1): Grant Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

While Debtor states she is current under the terms of the confirmed Plan, Debtor offers no evidence in support. Movant has offered evidence to show that Debtor has defaulted in payments. Moreover, the Non-Standard Provisions of Debtor’s confirmed Plan allow Movant to move for relief from the stay when Debtor is either in default in plan payments or in default under any agreed upon loan modification. Plan, Docket 13.

At the hearing the Debtor’s counsel says that the Debtor is current under the Plan through April 2025. Counsel for the Trustee reported that the Debtor is current and the Trustee has been disbursing

~~The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.~~

Co-Debtor Stay

Additionally, Movant has provided sufficient grounds to grant relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant has established, pursuant to 11 U.S.C. § 1301(c), that it would be irreparably harmed if relief from the co-debtor stay were not granted because Co-Debtor can enjoy the Property while Movant’s interest is not being adequately protected. Mot. 6:6-11.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Federal Rule of Bankruptcy Procedure 4001(a)(3) Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant

requests, as Debtor would not be incentivized to insure or preserve the Property if this Motion is granted, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 6:13-18.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

May 20, 2025 Hearing

At the hearing, counsel for the Trustee reported that the Debtor is current on the Plan payments and the adequate protection payments are being made to Creditor. Debtor has not yet set the initial loan modification request to Creditor, but will do so.

The parties requested that the court continue the hearing a month to allow Debtor time to diligent move forward with requesting a loan modification.

The hearing on the Motion for Relief from the Automatic Stay is continued to 1:30 p.m. on July 1, 2025.

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 U.S. Bank Trust Company, National Association, as Trustee, as successor-in-interest to U.S. Bank National Association, as trustee, on behalf of the holders of CSAB Mortgage-Backed Pass-Through Certificates, Series 2007-1 (“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 the Automatic Stay is
XXXXXXX.

Tentative Ruling: 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)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Chapter 7 Trustee and all creditors and parties in interest on June 6, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Motion to Compel Abandonment was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 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 offer 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.

No opposition was stated at the hearing.

The Motion to Compel Abandonment is XXXXXXX.
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July 1, 2025 Hearing

The court continued the hearing so Counsel for Mary Ann Benny, the successor representative to the late George Ignac Benny, could obtain specific information from the probate court to determine to whom and in what capacity the Property is being abandoned.

At the hearing, XXXXXXX

REVIEW OF MOTION

After notice and a hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or is of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(b). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Mary Ann Benny, the successor representative to the late George Ignac Benny (“Debtor”) requests the court to order Irma Edmonds (“the Chapter 7 Trustee”) to abandon property commonly known as 351 Rossler Road, Placerville, CA 95667 (“Property”). The Property is encumbered by the lien of Provident Funding Associates, LP, securing a claim of \$116,654. Debtor’s Amended Schedules A/B value the Property at \$694,000. Am. Schedule A/B at 4, Docket 18. Debtor has claimed exempt \$577,746 on her Amended Schedule C. Am. Schedule C at 2, Docket 23.

The Motion requests that the Estate’s interests be abandoned to “the Debtor.” However, given that the Debtor is deceased (Notice of Death, Dckt. 11), there is no “Debtor” to abandon the Property to. There may be a probate estate, a person who inherited the right to the Property, or other person to whom the Property be abandoned.

At the hearing, counsel for Successor Representative Mary Ann Benny reported to the court that there is a probate proceeding and that he would have to obtain the necessary information to identify the person, and in what capacity, the Property is abandoned. Counsel requested that the hearing be continued.

The hearing on the Motion to Compel Abandonment is continued to 1:30 p.m. on July 1, 2025.

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 to Compel Abandonment filed by Mary Ann Benny, Successor Representative for the late George Ignac Benny, the Debtor, having been presented to the court, counsel for Movant requesting a short continuance to assemble the information concerning the successor to the late Debtor to whom the property will be abandoned, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Compel Abandonment is **XXXXXXX**.