

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

July 16, 2024 at 1:30 p.m.

1. [24-21762](#)-E-13
[JDS-1](#)

LINDA CATRON
Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
6-7-24 [\[16\]](#)

NEWREZ LLC 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 (*pro se*), Chapter 13 Trustee, other parties in interest, and Office of the United States Trustee on June 7, 2024. By the court's calculation, 39 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 granted and the court further grants relief pursuant to 11 U.S.C. § 362(d)(4).

NewRez LLC *d/b/a* Shellpoint Mortgage Servicing as servicer for the Bank of New York Mellon *fka* The Bank of New York, as Trustee for the certificate holders of the CWMBS Inc., CHL Mortgage Pass-Through Trust 2007-HYB2, Mortgage Pass Through Certificates, Series 2007-HYB2, its successors and/or assigns ("Movant") seeks relief from the automatic stay with respect to Linda Catron ("Debtor") and Bruce Chadbourne, Mohammad Khan, and Ayesha Khan's ("Co-Debtors") real property commonly known as 7310

Plaza Circle, Tahoe Vista, CA 96148 (“Property”). Movant has provided the Declaration of Justin Alexander to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 18.

Movant alleges Debtor is owner and obligor on the Note and Deed of Trust. Based on information and belief, the subject Property is not Debtor’s principal residence. A loan modification application was denied on or about April 5, 2024 because Debtor did not sign and return the agreement or paid as agreed. *see* Ex. 37, Docket 19. The estimated value of the Property is \$870,000.00 based upon Movant’s Broker’s exterior price opinion as of May 3, 2024. Ex. 5 at 39, Docket 19; Mot. 2:12-23, Docket 16.

DEBTOR’S DEFAULT HISTORY

Debtor has been in default on her mortgage for at least 186 contractual monthly payment beginning with the payment due November 1, 2008. Contractual arrearages total \$609,115.84. Debtor is currently in post-petition default from May 1, 2024 to June 1, 2024 at \$20,003.15 each month, totaling \$40,006.30 in post-petition default. Mot. 2:25-3:2, Docket 16.

Number of Payments	Payment Amount	Payment Dates	Total
39	\$3,785.95	11/1/2008-1/1/2012	\$147,652.05
54	\$1,456.14	2/1/2012-7/1/2016	\$78,631.56
6	\$1,514.38	8/1/2016-1/1/2017	\$9,086.28
2	\$3,242.88	2/1/2017-3/1/2017	\$6,485.76
4	\$3,278.65	4/1/2017-7/1/2017	\$13,114.60
6	\$3,278.13	8/1/2017-1/1/2018	\$19,668.78
6	\$3,347.68	2/1/2018-7/1/2018	\$20,086.08
6	\$3,591.92	8/1/2018-1/1/2019	\$21,551.52
6	\$3,697.11	2/1/2019-7/1/2019	\$22,182.66
6	\$3,594.32	8/1/2019-1/1/2020	\$21,565.92
6	\$3,431.31	2/1/2020-7/1/2020	\$20,587.86
6	\$3,095.27	8/1/2020-1/1/2021	\$18,571.62
6	\$3,038.02	2/1/2021-7/1/2021	\$18,228.12
6	\$3,010.46	8/1/2021-1/1/2022	\$18,062.76
6	\$3,037.19	2/1/2022-7/1/2022	\$18,223.14
6	\$3,442.05	8/1/2022-1/1/2023	\$20,652.30
1	\$3,892.30	2/1/2023	\$3,892.30

5	\$4,915.30	3/1/2023-7/1/2023	\$24,576.50
5	\$5,262.44	8/1/2023-12/1/2023	\$26,312.20
1	\$19,974.38	1/1/2024	\$19,974.38
5	\$20,003.15	2/1/2024-6/1/2024	\$100,015.75
Escrow Required:			\$82,670.58
Total Corp. Adv. / Late / NSF / Atty. Fees:			\$35,449.06
Unapplied Balance:			\$(3,428.96)
Total Arrears:			\$763,812.82

An additional payment will come due on July 1, 2024 and will continue to come due on the first day of each month thereafter until the Note is paid in full.

The principal balance owed is in the amount of \$559,156.19 as of June 3, 2024:

Principal:	\$559,156.19
Accrued Interest:	\$418,039.77
Fees:	\$35,449.06
Funds owed by borrower:	\$187,310.22
Suspense balance:	\$(3,428.96)
Total Debt:	\$1,196,526.28

In addition, reasonable attorney fees and court filing costs not to exceed \$1,249.00 will be incurred for representation in this matter. Mot. 3:5-4:25, Docket 16.

In addition to the default, Movant alleges:

1. Around April 2, 2009, Debtor filed a Chapter 13 bankruptcy protection, case number 09-30827. The case was dismissed on June 8, 2009 for failure to file information and was terminated on June 24, 2009. *Id.* at 7:1-5; Ex. 8 at 19.
2. Around February 4, 2014, Debtor filed a Chapter 11 bankruptcy protection, case number 3:14-30175 Debtor then later converted to a Chapter 7 on June 5, 2015. An order granting relief from stay was granted on June 30, 2015. Mot. 7:7-12, Docket 16; *see* Ex. 9 at 55, Docket 19.

3. Around February 20, 2017, an unauthorized Grant Deed was executed and subsequently recorded in Placer County Recorder's Office whereby the original borrower, the Debtor, purported to transfer an undivided 20% interest in the Property to Mohammad Khan, an unmarried man. Around February 21, 2017, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 17-10547. The case was dismissed on March 22, 2017 for failure to file information and terminated on May 10, 2017. Mot. 9:9-22, Docket 16; *see* Ex. 18 at 74, Docket 19.
4. Around September 21, 2017, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 17-13630. The case was dismissed on December 1, 2017 for failure to file information and was terminated on February 20, 2018. Mot. 9:23-27, Docket 16; *see* Ex. 20 at 78, Docket 19.
5. Around April 10, 2018, Mohammad Khan filed a Chapter 11 bankruptcy protection, case number 18-11385. The case was dismissed on May 31, 2018 for failure to file information and was terminated on July 2, 2018. Mot. 10:1-5, Docket 16; *see* Ex. 21 at 79, Docket 19.
6. Around May 23, 2018, Debtor filed a Chapter 13 bankruptcy protection, case number 18-23232. The case was dismissed on October 19, 2018 for failure to make plan payments and was terminated on February 20, 2019. Mot. 7:14-18, Docket 16; *see* Ex. 10 at 59, Docket 19.
7. Around November 1, 2018, Debtor filed a Chapter 13 bankruptcy protection, case number 18-26923. The case was dismissed on November 30, 2018 for failure to file information and was terminated on January 23, 2019. Mot. 7:19-24, Docket 16; *see* Ex. 11 at 60, Docket 19.
8. Around January 8, 2019, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 19-10027. The case was dismissed on January 31, 2019 for failure to file information and was terminated on March 12, 2019. Mot. 10:7-11, Docket 16; *see* Ex. 22 at 80, Docket 19.
9. Around March 6, 2019, an unauthorized Grant Deed was executed and subsequently recorded in Placer County Recorder's Office whereby the original borrower, the Debtor, purported to transfer an undivided 5% interest in the Property to Ayesha Khan, an unmarried woman. Around April 29, 2019, Debtor filed the instant Chapter 13 bankruptcy protection with this Court. Mot. 11:9-17, Docket 16; *see* Ex. 27 at 85, Docket 19.
10. Around May 21, 2019, an unauthorized Grant Deed was executed and subsequently recorded in Placer County Recorder's Office whereby the original borrower, the Debtor, purported to transfer an undivided 5% interest in the Property to Bruce Chadbourne. Around May 17, 2019, Bruce Chadbourne filed a Chapter 13 bankruptcy protection, case number 19-10346. On August 9, 2019, an In Rem Relief Order was granted in favor

of creditor for the Property. Mot. 7:25-8:7, Docket 16; *see* Ex. 12 at 61, Docket 19.

11. Around July 16, 2019, Debtor filed a Chapter 13 bankruptcy protection, case number 19-24436. The case was dismissed on August 13, 2019 for failure to file information and was terminated on September 20, 2019. Mot. 8:14-19, Docket 16; *see* Ex. 14 at 70, Docket 19.
12. Around September 6, 2019, Debtor filed a Chapter 13 bankruptcy protection, case number 19-10668. The case was dismissed on October 22, 2019 for failure to file information and was terminated on December 16, 2019. Mot. 8:8-12, Docket 16; *see* Ex. 13 at 69, Docket 19.
13. Around November 5, 2019, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 19-14658. The case was dismissed on December 9, 2019 for failure to file information and was terminated on February 12, 2020. Mot. 10:14-18, Docket 16; *see* Ex. 23 at 81, Docket 19.
14. Around August 25, 2020, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 20-12774. The case was dismissed on November 19, 2020 for failure to file information and was terminated on January 8, 2021. Mot. 10:19-24, Docket 16; *see* Ex. 24 at 82, Docket 19.
15. Around December 15, 2020, Mohammad Khan filed a Chapter 11 bankruptcy protection, case number 20-13855. The case was dismissed on February 24, 2021 and was terminated on January 19, 2023. Mot. 10:25-11:2, Docket 16; *see* Ex. 25 at 83, Docket 19.
16. Around February 28, 2023, Debtor filed a Chapter 13 bankruptcy protection, case number 23-20616. The case was dismissed on July 28, 2023 for failure to make plan payments and was terminated on January 22, 2024. Mot. 8:20-25, Docket 16; *see* Ex. 15 at 71, Docket 19.
17. Around July 31, 2023, Debtor filed a Chapter 13 bankruptcy protection, case number 23-22522. The case was dismissed on October 19, 2023 for failure to file information and was terminated on February 22, 2024. Mot. 8:26-9:3, Docket 16; *see* Ex. 16 at 72, Docket 19.
18. Around December 12, 2023, Mohammad Khan filed a Chapter 13 bankruptcy protection, case number 23-12755. The case was dismissed on January 25, 2024 and was terminated on March 12, 2024. Mot. 11:3-8, Docket 16; *see* Ex. 26 at 84, Docket 19.
19. Around January 10, 2024, Debtor filed a Chapter 13 bankruptcy protection, case number 24-20101. The case was dismissed on April 11, 2024. Mot. 9:4-8, Docket 16; *see* Ex. 17 at 73, Docket 19.

CHAPTER 13 TRUSTEE'S NON-OPPOSITION

The Chapter 13 Trustee filed a Nonopposition to the creditor's motion for relief from the automatic stay. This is because the case was filed on April 24, 2024 and has no confirmed plan, the Debtor has yet to file a Plan or Schedules in her case. Non-Opposition, Docket 22.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on July 2, 2024. Docket 24. Debtor asserts the following:

1. Debtor requests an evidentiary hearing under the bankruptcy code. She found out that her lender, New York Bank Mellon, is part of a scheme that was conducting espionage on her and violated multiple Bankruptcy Stay orders and was involved in hacking, stealing trade secrets, and tampering with legal proceedings. Opp'n 2, Docket 24.
2. Debtor found a letter on or about August 29, 2024 that Shellpoint left a work order and confirmation at her house. The lender conspired and organized a breaking and entering into Debtor's property, changing the locks and destroying her property. Debtor was isolated during Covid-19 and returned to continue to operate her property on or about August 29, 2024 when she found the vandalism and damage to her locks and security system. *Id.*
3. Debtor was on a fixed income when she found the damaged property. The lender has not taken responsibility and has refused to pay Debtor for the damages which have now increased to \$200,000-\$300,000 plus lost opportunity. The lender has been sent demand letters and has not responded to fix or remedy the issue. *Id.*
4. Debtor's loan was paid off in 2023 through a loan modification in February 2024 and the bankruptcy code protects the property. The lender has fraudulently misrepresented the facts. Any issue for this debt will be set off under the bankruptcy code. *Id.*
5. Debtor was a victim of espionage by this lender and attorney who orchestrated this scheme—Dane Exnowski. Debtor has evidence of FBI and DOJ involvement. The settlements matter was an ordinary course of business the lender is seeking relief from. Debtor was unaware until recently that this lender was hiding its identity through trusts and conducting illegal surveillance, espionage, and interfering with business and contracts that were part of a business. The DOJ and AG are investigating this matter, which also includes a murder investigation. Debtor says that she will be required to provide this information to the trustee and attorney for her schedules and hearing on July 10, 2024. *Id.*

6. Debtor opposes this hearing as a victim of the tort from the lender and has been unable to make payments due to the lender's negligence and vandalism. Litigation is being filed to remedy this matter, including causes of action for tolling, punitive damages, unfair competition law violations, and negligence due to these oppressive acts and criminal and civil harassment, including framing the debtor and business partners in this light after hacking and having full knowledge of business operations and intent to pay debts. The lender interfered in business violating automatic stays and violating the Computer Fraud Abuse Act. *Id.* at 2-3.
7. The lender also used illegal surveillance at a very high level of criminal espionage tactics, including buying the debt of espionage targets and then ruining and interfering with the business, thereby violating conflict of interest laws and consumer financial protection laws. *Id.*
8. Debtor is meeting with several sets of counsel and authorities prior to this hearing and requests an evidentiary hearing to provide evidence. Debtor states that any co-debtors are entitled to relief as a settlement in Debtor's estate which will be addressed by Counsel regarding the attorney who has tampered with issues in the past and espionage by the lender. *Id.* at 3.
9. Debtor asserts that her schedules will reflect these issues and she requests leave to amend the answer when her attorney appears. *Id.*
10. Debtor's income was decimated when the lender violated the stay. She has an asset she is liquidating with the court's approval to make payments and requests the court's permission to do so. *Id.*
11. Debtor provided exhibits. The first exhibit is a hand-written list of bullet points, explaining that Shellpoint broke into Debtor's property on January 16, 2022 and that Debtor found the house in its vandalized condition on August 29, 2022. She asserts that evidence is attached and that it appears the lender foreclosed and took possession on January 16, 2022. The document attached is a notice that the Property is under the management of Guardian Asset Management. The second attachment is a Sign-In Sheet for Guardian Asset Management. *Id.* at 4-7.

DISCUSSION

**11 U.S.C. § 362(d)(1) and (2);
11 U.S.C. § 362(c)(4)**

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 JE Livestock, Inc. v. Wells Fargo Bank, N.A. (In re JE 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).

A debtor has no equity in property when the liens against the property exceed the property's value. *Stewart v. Gurley*, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective rehabilitation 11 U.S.C. § 362(g)(2); *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd.*, 484 U.S. 365, 375–76 (1988); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). Based upon the evidence submitted to the court, and based on the nonopposition filed by the Chapter 13 Trustee, the court determines that there is no equity in the Property for either Debtor or the Estate, and the property is not necessary for any effective rehabilitation in this Chapter 13 case. The value of the property is \$870,000.00 and the total value of the liens to the secured creditor is \$1,196,526.28, rendering the property with negative \$326,526.28 equity. Mot. 5:17-19, Docket 16; POC 1-1.

However, the court is not at liberty to grant relief from stay here as no stay is in effect in this case. 11 U.S.C. § 362(c)(4) states (emphasis added):

(4)

(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and **if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed**, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), **the stay under subsection (a) shall not go into effect upon the filing of the later case**; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. . .

Debtor had a case dismissed on October 19, 2023 (case no. 23-22522), and another dismissed on April 11, 2024 (case no. 24-20101), which were both pending within a year of the present case (case no. 24-21762).

Therefore, the court does not have a basis grant relief from the stay, because there is no stay in effect. However, the court is authorized to issue an order confirming no stay is in effect. 11 U.S.C. § 362(j).

Application of 11 U.S.C. § 362(c)(4)
as it Relates to Debtor's Recent
Bankruptcy Case Filings and Dismissals

Reviewing Debtor’s recent bankruptcy case filings and dismissals, the statutory application of 11 U.S.C. § 362(c)(4) would be as follows:

Debtor Case

Debtor Case No.	Filed	Dismissed	Application of 11 U.S.C. § 362(c)(4)
23-20612	2/28/2023	7/28/2023	
23-22522	7/31/2023	10/19/2023	11 U.S.C. § 362(c)(4) prevents the § 362(a) Stay from Automatically going into effect in a subsequent case filed on or before July 28, 2024
24-20101	1/10/2024	4/11/2024	11 U.S.C. § 362(c)(4) prevents the § 362(a) Stay from Automatically going into effect in a subsequent case filed on or before October 19, 2024.
Current Case 24 24-21762	April 29, 2024	Pending	

The court now raises this issue because as the Supreme Court has noted, “courts have the discretion, but not the obligation, to raise on their own initiative certain nonjurisdictional barriers to suit,” but courts are not authorized to otherwise ignore the law of the Bankruptcy Code in issuing orders. *United Student Aids Funds, Inc. V. Espinosa*, 559 U.S. 260, 279 at n. 14 (2010) (citing *Day v. McDonough*, 547 U.S. 198, 202, 209 (2006)).

11 U.S.C. § 362(d)(4)

Prospective Relief from Future Stays

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

Certain patterns and conduct that have been characterized as bad faith include recent transfers of assets, a debtor’s inability to reorganize, and unnecessary delays by serial filings. *Id.* This debtor has transferred portions of her interest in the property to the co-debtors and has caused unnecessary delay through serial filings.

Relief pursuant to 11 U.S.C. § 362(d)(4) may be granted if the court finds that two elements have been met. The filing of the present case must be part of a scheme, and it must contain improper transfers

or multiple cases affecting the same property. With respect to the elements, the court concludes that the filing of the current Chapter 13 case in the Eastern District of California was part of a scheme by Debtor to hinder and delay Movant from conducting a nonjudicial foreclosure sale by filing multiple bankruptcy cases.

The fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial crisis and allow all parties, debtor and creditors, to take stock of the situation. However, the filing of the current Chapter 13 case cannot have been for any bona fide, good faith reason in light of transfers of assets and serial filings.

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 362(d)(4). Movant has provided sufficient evidence concerning bankruptcy cases being filed to prevent actions against the Property. Movant has provided the court with evidence that Debtor has engaged in a scheme to hinder, defraud, and delay creditors through the multiple filing of bankruptcy cases.

In granting the 11 U.S.C. § 362(d)(4) relief, the court notes that such is not the end of the game for Debtor. While granting relief through this case, if Debtor has a good faith, bona fide reason to commence another case while that order is in effect for the Property, the judge in the subsequent case can impose the stay in that case. 11 U.S.C. § 362(c)(4). That would ensure that Debtor, to the extent that some bona fide reason existed, would effectively assert such rights rather than filing several bankruptcy cases that are then dismissed.

Scope of Motion For Relief From Stay

In *Hamilton v. Hernandez* (*In re Hamilton*), No. CC-04-1434-Mack, 2005 Bankr. LEXIS 3427 (B.A.P. 9th Cir. Aug. 1, 2005), the Bankruptcy Appellate Panel restated the proposition that relief from stay proceedings are summary proceedings which address issues arising only under 11 U.S.C. § 362(d). *Hamilton*, 2005 Bankr. LEXIS at *8-*9 (citing *Johnson v. Righetti* (*In re Johnson*), 756 F.2d 738, 740 (9th Cir. 1985)). The court does not now determine underlying issues of ownership, contractual rights of parties, or issues of declaratory relief in this proceeding.

The court recognizes Debtor here alleges many causes of action in her Opposition. Such causes of action must be initiated and prosecuted by a separate adversary proceeding, which is a more traditional lawsuit, commenced under Fed. R. Bankr. P. 7001.

As the court addresses at the hearing on the record, which federal court jurisdiction is very broad in connection with bankruptcy cases, that jurisdiction must be exercised in connection with the good faith prosecution of a bankruptcy case. Where a dispute of a key non-bankruptcy issue exists and must be litigated, a debtor could use the automatic stay in lieu of a preliminary injunction while that dispute is litigated in State or Federal (including Bankruptcy Court).

In such cases, the Debtor will provide adequate protection payments into a block account, which is in lieu of the bond normally required for a preliminary injunction. Such then allows the Debtor to prosecute a plan in good faith, perform the plan, fund the adequate protection monies, and perform the bankruptcy plan.

If a debtor cannot create such an adequate protection fund, then the debtor would need to seek the preliminary injunction in the State or Federal Court litigation, and then address the bond requirement

in that court (with the State or Federal Court having the authority to set the bond amount, which could possibly be \$0.00).

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(a), that it would be irreparably harmed if relief from the co-debtor stay were not granted for the same reasons as that of the Debtor.

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, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. However, due to the severity of the arrearage and continued effort to hinder creditor, the court will grant this part of the relief under these specific facts.

Request for Attorneys' Fees

In the Motion, almost as if an afterthought, Movant requests that it be allowed attorneys' fees. The Motion does not allege any contractual or statutory grounds for such fees (other than to state Movant seeks the fees "pursuant to the Security Agreement"). No dollar amount is requested for such fees. No evidence is provided of Movant having incurred any attorneys' fees or having any obligation to pay attorneys' fees. Based on the pleadings, the court would either: (1) have to award attorneys' fees based on grounds made out of whole cloth, or (2) research all of the documents and California statutes and draft for Movant grounds for attorneys' fees, and then make up a number for the amount of such fees out of whole cloth. The court is not inclined to do either.

Furthermore, a claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages. FED. R. CIV. P. 54(d)(2)(A); FED. R. BANKR. P. 7054, 9014.

Request for Prospective Injunctive Relief

Movant makes an **additional request stated in the prayer**, for which no grounds are clearly stated in the Motion. Movant's further relief requested in the prayer is that this court make this order, **as opposed to every other order issued by the court**, binding and effective despite any conversion of this case to another chapter of the Code. Though stated in the prayer, no grounds are stated in the Motion for grounds for such relief from the stay. The Motion presumes that conversion of the bankruptcy case will be reimposed if this case were converted to one under another Chapter.

As stated above, Movant's Motion does not state any grounds for such relief. Movant does not allege that notwithstanding an order granting relief from the automatic stay, a stealth stay continues in existence, waiting to spring to life and render prior orders of this court granting relief from the stay invalid and rendering all acts taken by parties in reliance on that order void.

Other than referencing the court to the legal basis (11 U.S.C. § 362(d)(1), (2) and (4)) and then pleading adequate grounds thereunder, it is not necessary for a movant to provide a copy of the statute quotations from well known cases. However, if a movant is seeking relief from a possible future stay, which may arise upon conversion, the legal points and authorities for such unknown nascent stay is necessary.

As noted by another bankruptcy judge, such request (unsupported by any grounds or legal authority) for relief of a future stay in the same bankruptcy case:

[A] request for an order stating that the court's termination of the automatic stay will be binding despite conversion of the case to another chapter unless a specific exception is provided by the Bankruptcy Code is a common, albeit silly, request in a stay relief motion and does not require an adversary proceeding. Settled bankruptcy law recognizes that the order remains effective in such circumstances. Hence, the proposed provision is merely declarative of existing law and is not appropriate to include in a stay relief order.

Indeed, requests for including in orders provisions that are declarative of existing law are not innocuous. First, the mere fact that counsel finds it necessary to ask for such a ruling fosters the misimpression that the law is other than it is. Moreover, one who routinely makes such unnecessary requests may eventually have to deal with an opponent who uses the fact of one's pattern of making such requests as that lawyer's concession that the law is not as it is.

In re Van Ness, 399 B.R. 897, 907 (Bankr. E.D. Cal. 2009) (citing *Aloyan v. Campos (In re Campos)*, 128 B.R. 790, 791–92 (Bankr. C.D. Cal. 1991); *In re Greetis*, 98 B.R. 509, 513 (Bankr. S.D. Cal. 1989)).

As noted in the 2009 ruling quoted above, the “silly” request for unnecessary relief may well be ultimately deemed an admission by Movant and its counsel that all orders granting relief from the automatic stay are immediately terminated as to any relief granted Movant and other creditors represented by counsel, and upon conversion, any action taken by such creditor is a *per se* violation of the automatic stay.

**Debtor Retains the Right to Request
the Court Impose the Stay in a Case
in Which 11 U.S.C. § 362(c)(4) or
§ 362(d)(4) Are Applicable**

In substance, the issuance of this order imposing the 11 U.S.C. § 362(d)(4) relief (two year period in which the automatic stay would not “automatically” go into effect in a subsequent case filed by Debtor), effectively mimics the one year period provided in 11 U.S.C. § 362(c)(4) in which the stay does not “automatically go into effect” when the debtor has had pending and dismissed two bankruptcy cases in the one year period prior to the commencement of the then subsequently filed bankruptcy case.

The provisions of 11 U.S.C. § 362(c)(4) and § 362(d)(4) pertaining to the ability of a debtor or other party in interest in a case where the automatic stay does not “automatically” go into effect provide in pertinent part (emphasis added):

11 U.S.C. § 362(c)(4)(B)

(B) if, within 30 days after the filing of the later case, a party in interest requests **the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing**, only if the party in interest **demonstrates that the filing of the later case is in good faith as to the creditors to be stayed**;

(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

(i) as to all creditors if—

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.

11 U.S.C. § 362(d)(4)(B)

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, **except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.** Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.

In both situations the Debtor may seek relief from the court in the then subsequently filed bankruptcy court to impose the stay that does not “automatically” go into effect.

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 NewRez LLC *d/b/a* Shellpoint Mortgage Servicing (“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 court confirms the automatic stay provisions of 11 U.S.C. § 362(a) are not in effect in this case pursuant to 11 U.S.C. § 362(c)(4).

IT IS FURTHER ORDERED that the request to terminate the co-debtor stay of Bruce Chadbourne, Mohammad Khan, and Ayesha Khan of 11 U.S.C. § 1301(a) is granted to the same extent as provided in the forgoing paragraph granting relief from the automatic stay arising under 11 U.S.C. § 362(a).

IT IS FURTHER ORDERED that the above relief is also granted pursuant to 11 U.S.C. § 362(d)(4), which further provides:

“If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property

shall accept any certified copy of an order described in this subsection for indexing and recording.”

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

2. [24-20884-E-13](#)
[SKI-2](#)

RAKESH/BALJIT BAINS
Mark Wolff

**MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-11-24 [86]**

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, parties requesting special notice, and Office of the United States Trustee on June 11, 2024. Proof of Service 2:4-5, Docket 93. By the court’s calculation 35 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 granted.
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Americredit Financial Services, Inc. DBA GM Financial (“Movant”) seeks relief from the automatic stay with respect to an asset identified as a 2022 GMC Sierra, VIN ending in 5658 (“Vehicle”). The moving party has provided the Declarations of John Eng and Lesa Monk to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Red Wing Carrier, Inc. (“Red Wing”), who is not the Debtor. Decls., Docket 88, 89.

Movant argues the Vehicle was owned by Red Wing, and then debtor Rakesh Kumar Bains and Baljit Kaur Bains (“Debtor”) may have since transferred title upon Red wing’s dissolution, not paying creditors in the process. As discussed below, such transfers from an insolvent corporation to the corporation’s officers before creditors being paid is not permitted under California law.

Creditor submits authenticated evidence showing Red Wing owns the Vehicle, not Debtor, with Debtor's name not appearing anywhere on the Retail Installment Sale Contract and State of California Certificate of Title. See Exhibits A and B, Docket 91.

Movant argues the account is delinquent 4 payments, with a total of \$4,648.12 in payments past due. Decl. 2:28, Docket. 89.

Trustee filed a nonopposition on July 2, 2024. Docket 121.

Debtor did not file an Opposition.

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 \$60,094.23 (Decl. 2:24, Docket 89), while the value of the Vehicle is determined to be \$55,808.31, as stated in Schedules A/B and D filed by Debtor. Ex. D 21, Docket 91.

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). 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.

Furthermore, in *In re Moniz*, 2011 WL 9189752 3 (LBR 2011), we discussed *Nahman v. Jacks*, 266 B.R. 728 (9th Cir. BAP 2001), in which the Bankruptcy Appellate Panel addressed the issue of the trust fund doctrine, concluding that “California courts have recognized that all assets of a corporation, immediately upon becoming insolvent, become a trust fund for the benefit of creditors,” citing to *Saracco Tank & Welding Co. Ltd. v. Platz*, 65 Cal.App.2d 306 (1944). As explained in *Moniz*, the trust fund doctrine was further reaffirmed in *Berg & Berg Enterprises, LLC v. Boyle*, 178 Cal.App.4th 1020, 1041 (2009), where the California District Court of Appeals held that “actions of the officers and directors that divert or dissipate assets that might otherwise be used to pay creditor claims may be avoided.” *See Moniz*, 2011 WL 9189752 at 3. This means that the officers and directors are precluded from diverting the assets to themselves or entities in which they have an interest. *Id.*

As was explained by the court during the hearing on the Creditor's Objection to Confirmation of Plan held on May 5, 2024, “[h]ere, the evidence shows that Debtor does not own the Vehicle. Red Wing is the actual owner of the Vehicle, as depicted in the California Retail Installment Contracts included as an

Exhibit. Docket 66. Therefore, the Vehicle is not a part of this bankruptcy estate in any capacity. Yet, Debtor is attempting to modify the rights of Creditor as if Debtor's interest in the Vehicles were Red Wing's ownership interest. *See* Plan, Docket 19 § 7. Debtor cannot use the bankruptcy code to impermissibly modify the rights of Creditor in this way." Civ. Min. 3, Docket 85. Even if Debtor's actions are viewed as an attempt to release Red Wing from its liability through this Chapter 13 case by taking on the debt and obligation of Red Wing, "[t]he Bankruptcy Code does not allow this type of third party release. *See In re Lowenschuss*, 67 F.3d 1394, 1401 (9th Cir. 1995) (holding "Section 524 does not. . . provide for the release of third parties from liability; to the contrary, § 524(e) specifically states that 'discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt.'"). Such an attempted modification is not permitted by law and is in violation of 11 U.S.C. § 1325(a)(3)." *Id.*

As such, the court finds cause to grant relief from the stay, including both postpetition defaults in payments as well as ownership issues.

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 that the court grant relief from the Rule as adopted by the United States Supreme Court due to the fact that the Debtors are not on title or contract to the Vehicle. Mot. for Relief 3:10-11, Docket 86. With grounds for such relief specified, the court will grant additional relief stated in the prayer.

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.

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 Americredit Financial Services, Inc. DBA GM Financial ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Vehicle, under its security agreement, loan documents granting it a lien in the asset identified as a 2022 GMC Sierra, VIN ending in 5658 ("Vehicle"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Vehicle to the obligation secured thereby.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

3. [24-21498-E-13](#) **MICHAEL/SUSAN COLE** **MOTION FOR RELIEF FROM**
[TES-1](#) **Eric Schwab** **AUTOMATIC STAY**
 7-2-24 [34]
PNC BANK, 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.

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 Debtor, Debtor’s Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 2, 2024. 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). Debtor, creditors, the Chapter 13 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. At the hearing, -----

The Motion for Relief from the Automatic Stay is granted.

PNC Bank, National Association (“Movant”) seeks relief from the automatic stay with respect to assets identified as:

1. an ASV RT40 Compact Loader w/ 48" Smooth Bucket, Serial No. ASVRT040CKDS00527 (“Loader”);
2. Bobcat LT113 Trencher, Serial No. 233806733 (“Trencher”); and

3. Bobcat HB680 Hydraulic Breaker, Serial No. A00W10756 (“Breaker”)

(collectively, “Property”). The moving party has provided the Declaration of Michael McGinley to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Michael Allan Cole and Susan Rae Cole (“Debtors”). Decl. 2:4-3:20, Docket 38.

Movant financed the Property on behalf of Lavish Enterprises Inc. (“Lavish”), a corporation owned and operated by Debtor. Debtor is obligated to pay Movant under the terms of their agreement. Decl. 2:8-9, Docket 38. In 2024, before the filing of this petition, and with the cooperation of Debtor, Movant obtained possession of the Loader and intends to sell it in a commercially reasonable manner. *Id.* at 2:17-19.

Movant also informs the court it has recovered the Breaker. Decl. 3:7, Docket 38. Movant intends to sell the Breaker in a commercially reasonable manner.

Movant further informs the court it has already recovered and sold prepetition an additional piece of collateral, a Bobcat 10 Auger Drive Unit, Serial No. 879913454 (“Auger”). The Auger was sold for \$1,500. *Id.* at 3:8. It not clear to the court whether Movant seeks relief as to this asset as well, the Motion not clearing explaining which items it seeks the relief.

At the hearing, **XXXXXXX**

Movant argues Debtor has not made approximately 3 post-petition payments, with a total of \$4,175.19 in post-petition payments past due. Decl. 3:5-15, Docket 38; Summary Sheet, Docket 36. Movant also provides evidence that there are 11 pre-petition payments in default for the Loader and 9 pre-petition payments in default for the Trencher and Breaker, with a pre-petition arrearage of \$14,811.97. *Id.*

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the value of the Property is determined to be \$31,000.00 as assessed by Creditor, delineated in the following amounts:

1. The Loader has a retail value of \$25,000.00. Mot. 3:9, Docket 34. The outstanding debt under the Loader account is \$17,881.44. Decl. 4:3, Docket 38.
2. The Trencher has a retail value of \$3,000.00. Mot. 4:14, Docket 34.
3. The Breaker has a retail value of \$3,000.00. Mot. 4:14, Docket 34. The outstanding debt on the account with the Breaker and Trencher is \$6,000. Decl. 4:9, Docket 38.

In total, the value of the Property is worth an estimated \$31,000, while the debt is estimated at \$26,456.59, absent costs or attorney’s fees. Mot. 5:28-6:1, Docket 34.

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). The court determines that cause exists for terminating the automatic stay because Debtor and the Estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.

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, because the older the Property becomes, the lower the selling price, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 5:23, Docket 34.

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.

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 PNC Bank, National Association (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as:

1. an ASV RT40 Compact Loader w/ 48" Smooth Bucket, Serial No. ASVRT040CKDS00527;
2. Bobcat LT113 Trencher, Serial No. 233806733;

3. and Bobcat HB680 Hydraulic Breaker, Serial No. A00W10756 (“Property”),

and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

4. 24-20313 -E-13	KEANNA ALMEDA Peter Macaluso	CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 4-30-24 [62]
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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. If the court’s tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on April 30, 2024. The court computes that 71 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on April 25, 2024.

The Order to Show Cause is XXXXXXX.

July 16, 2024 Hearing

The court continued these matters from the hearing held on July 10, 2024, as counsel for Debtor requested just a bit more time to get these fees paid, ensuring the court the fees will be paid. A review of the Docket on July 12, 2024 reveals that the fees have not yet been paid.

At the hearing, XXXXXXX

REVIEW OF THE O.S.C.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The filing fee delinquency having not been cured, the Order to Show Cause is sustained and the Bankruptcy Case is dismissed.

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 Order to Show Cause 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 Order to Show Cause is **XXXXXXX**.

5. 24-20313 -E-13	KEANNA ALMEDA Peter Macaluso	CONTINUED ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 5-30-24 [71]
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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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 30, 2024. The court computes that 41 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$77 due on May 28, 2024.

The Order to Show Cause is XXXXXXX.

July 16, 2024 Hearing

The court continued these matters from the hearing held on July 10, 2024, counsel for Debtor requesting just a bit more time to get these fees paid, ensuring the court the fees will be paid. A review of the Docket on July 12, 2024 reveals that the fees have not yet been paid.

At the hearing, **XXXXXXX**

REVIEW OF THE O.S.C.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.

The filing fee delinquency having not been cured, the Order to Show Cause is sustained and the Bankruptcy Case is dismissed.

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 Order to Show Cause 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 Order to Show Cause is **XXXXXXX**.