



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

July 18, 2023 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

Video web address:

<https://www.zoomgov.com/j/1608570122?pwd=WGoxd04wbmFRS3lDV0U4TTY2ZFdDdz09>

Meeting ID: 160 857 0122

Password: 946521

Zoom.Gov Telephone: (669) 254-5252 (Toll Free)

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medicaid credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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July 18, 2023 at 1:30 p.m.

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|----|--------------------------------|------------------|-------------------------------|
| 1. | 19-22300 -C-13 | LESLIE SAWYER | MOTION TO MODIFY PLAN |
| | DPB -2 | Douglas Broomell | 6-4-23 [54] |

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 38 days' notice was provided. Dkt. 60. It is noted that counsel did not use the official certificate of service form pursuant to Local Rule 7005-1.

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| <p>The Motion to Confirm is denied.</p> |
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The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 56) filed on June 4, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 61) on June 26, 2023, opposing confirmation on the following grounds:

1. Section 7 in the plan is not clear enough for him to know what payments he is supposed to make and when;
2. Plan fails to suspend the postpetition arrears;
3. Plan fails to provide for postpetition arrears to class 1 creditor;
4. Plan is not feasible;
5. Debtor's schedules I and J do not support the plan payment amount.

DISCUSSION

The debtor is \$8,079.00 delinquent in plan payments and the proposed plan fails to suspend the delinquency. Declaration, Dkt. 62. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

The plan mathematically requires a payment of \$3,459.00 per month, which is greater than the proposed payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtor, Leslie Sawyer, 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 is denied, and the plan is not confirmed.

2. [21-21656](#)-C-13 TEMA ROBINSON MOTION TO EXTEND APPLICATION TO
 [PGM](#)-7 Peter Macaluso DISMISS AND/OR MOTION TO
 APPROVE USE OF STATE FARM
 GENERAL INSURANCE FUNDS
 6-20-23 [[127](#)]

This matter was order continued through stipulation between the parties to August 22, 2023 at 1:30 p.m. Dkt. 134.

3. [18-27288](#)-C-13 ROBERT/ALLISON KING
[SKI](#)-1 Thomas Amberg

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-14-23 [[64](#)]

CAB WEST, LLC VS.

Final Ruling: No appearance at the July 18, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 70.

The Motion for Relief from the Automatic Stay is granted.

CAB West, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' 2020 Ford Escape (the "Property")

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors postpetition lease has matured, debtors have not exercised the purchase option, nor have they surrendered the vehicle. Dkt. 68.

DEBTOR'S NON-OPPOSITION

Debtor filed a notice of no opposition on June 23, 2023. Dkt. 74.

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the lease has expired and the debtors have not exercised their option to purchase the vehicle. The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(2) because the debtor has no equity in the vehicle and the property is not necessary to an effective reorganization.

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. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not 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 not granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by CAB West, LLC ("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 a 2020 Ford Escape ("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 not waived for cause.

No other or additional relief is granted.