UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

August 1, 2017, at 1:30 p.m.

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1. 17-24219-E-13 DEBRA JAGER
JBC-1 Pro Se

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-18-17 [22]

DAVID SHULKIN 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 (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on July 18, 2017. 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 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.

David Shulkin ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 6930 Gloria Drive, Sacramento, California ("Property"). The moving party has provided the Declaration of David Shulkin to introduce evidence as a basis for Movant's contention that Debra Jager ("Debtor") does not have an ownership interest in or a right to maintain possession of the Property. Movant presents evidence that it is the owner of the Property. Based on the evidence presented,

Debtor would be at best a tenant at sufferance. Movant commenced an unlawful detainer action in California Superior Court, County of Sacramento and received a judgment for possession on June 27, 2017. Exhibit E, Dckt. 25.

TRUSTEE'S RESPONSE

David Cusick, the Chapter 13 Trustee, filed a Response on July 21, 2017. Dckt. 29. The Trustee does not oppose the Motion.

DISCUSSION

Movant has provided a properly authenticated Judgment to substantiate its claim of ownership. Based upon the evidence submitted, the court determines that there is no equity in the Property for either Debtor or the Estate. 11 U.S.C. § 362(d)(2).

Movant has presented a colorable claim for title to and possession of this real property. As stated by the Bankruptcy Appellate Panel, relief from stay proceedings are summary proceedings that address issues arising only under 11 U.S.C. Section 362(d). *Hamilton v. Hernandez (In re Hamilton)*, No. CC-04-1434-MaTK, 2005 Bankr. LEXIS 3427, at *8–9 (B.A.P. 9th Cir. Aug. 1, 2005) (citing *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)). The court does not determine underlying issues of ownership, contractual rights of parties, or issue declaratory relief as part of a motion for relief from the automatic stay in a Contested Matter (Federal Rule of Bankruptcy Procedure 9014).

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 default and no showing of an interest in the property or of providing adequate protection. 11 U.S.C. § 362(d)(1).

Denial of Request for § 362(d)(4) Relief

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 the property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n.

Resnick & Henry H. Sommer eds. 16th ed.). One problem with the analysis for Movant, however, is that 11 U.S.C. § 362(d)(4) limits such relief to "a creditor whose claim is secured by an interest in such real property," but here, Movant has argued that he is the legal owner of the Property and not a creditor with a claim secured by the real property. When a debtor is not vested with title to a property, that debtor cannot grant a security interest in it. *See In re Bradley*, 3 B.R. 313 (Bankr. E.D. Va. 1980).

Relief can be granted by the court under different provisions of 11 U.S.C. § 362(d), but it cannot be granted under 11 U.S.C. § 362(d)(4) for Movant.

The court shall issue an order terminating and vacating the automatic stay to allow David Shulkin, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the real property commonly known as 6930 Gloria Drive, Sacramento, California, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

Relief from 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 includes as a section of the Motion a request that the court to waive the fourteen-day stay, citing as grounds the conduct of Debtor asserted as the basis for relief from the stay, specifically, citing the court to the alleged conduct of Debtor in moving from rental property to rental property, defaulting on rent along the way. 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.

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.

No points and authorities is provided in support of the Motion. This is not unusual for a relatively simple (in a legal authorities sense) motion for relief from stay as the one before the court. Other than referencing the court to the legal basis (11 U.S.C. § 362(d)(3) or (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 heretofore unknown nascent stay is necessary.

As noted by another bankruptcy judge, such (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 David Shulkin and its counsel that all orders granting relief from the automatic stay are immediately terminated as to any relief granted David Shulkin and other creditors represented by counsel, and upon conversion, any action taken by such creditor is a *per se* violation of the automatic stay.

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 David Shulkin ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow David Shulkin and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 6930 Gloria Drive, Sacramento, California.

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. **17-20220-E-13** **WILLIAM/FAYE THOMAS** **MOTION FOR RELIEF FROM AUTOMATIC STAY**
APF-1 **Kristy Hernandez** **6-30-17 [16]**

AFFILIATED PROFESSIONAL SERVICES, INC. VS.

Final Ruling: No appearance at the August1, 2017 hearing is required.

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, creditors, and Office of the United States Trustee on June 30, 2017. By the court's calculation, 32 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 hearing on the Motion for Relief from the Automatic Stay is continued to 1:30 p.m. on August 29, 2017.

Affiliated Professional Services, Inc. ("Movant") seeks relief from the automatic stay to allow *Affiliated Professional Services, Inc. v. Glen Van Dyke et al.* ("State Court Litigation") to be concluded. Movant has provided the Declaration of Anthony Fritz to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by William Thomas ("Debtor").

Movant states that relief is needed due to:

A. Debtor's confirmed Chapter 13 Plan providing funding in part from APS's recovery in the State Court Litigation; and

B. The claims asserted in the State Court Action arise under California State law and can be most expeditiously resolved in the California Superior Court forum.

CREDITORS' RESPONSE

Creditors Glen Van Dyke and Dale Washington, who are also Defendants and Cross-Complainants in the State Court Litigation, filed an Opposition on July 17, 2017. Dckt. 22. Creditors assert that:

A. If the automatic stay is to be lifted, then it must be lifted as to *all parties*, and

B. It must be lifted as to *all matters*, including allowing enforcement of judgment against the bankruptcy estate.

Creditors argue that relief from the stay should be lifted against Debtor and Movant because any judgment against Movant would have an immediate impact on Debtor, as the sole shareholder. *Id.*, at 9:1–4.

TRUSTEE'S RESPONSE

David Cusick, the Chapter 13 Trustee, filed a Response on July 18, 2017. Dckt. 26. The Trustee asserts that he does not oppose the State Court Litigation on the grounds that Debtor owns 100% of Movant, that the confirmed Chapter 13 Plan calls for proceeds from the lawsuit to be paid into the estate, and that the lawsuit has not been removed to the Bankruptcy Court.

MOVANT'S REPLY

Movant filed a Reply on July 25, 2017. Dckt. 34. Movant argues that Creditors have not presented any legal authority to support its position that any judgment obtained in their favor in the State Court Litigation be enforceable against Debtor's Chapter 13 Estate.

Movant also argues that Creditors are bound by the terms of the confirmed plan in this case, such that they are not entitled to any greater recovery against Debtor or the estate than provided for by the Plan.

Regarding recovery, Movant argues that its recovery against Creditors in the State Court Litigation is not property of the estate in this bankruptcy case. Movant equates the scenario of recovery to a "reverse piercing of the corporate veil," which it argues has been rejected as sound doctrine. *Id.*, at 3:28–4:1–8.

Movant argues that the co-debtor stay does not apply to it because the claims alleged against Debtor and Movant are not consumer debts.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds.

16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8–9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. *See Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders (In re Santa Clara Cty. Fair Ass'n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

In this case, Movant seeks relief to allow Creditors to proceed with a lawsuit that involves Debtor as a cross-defendant. The primary lawsuit is between Movant and Creditors, and Debtor has only been implicated by Creditors' cross-complaint against Movant and Debtor. Recovery from the lawsuit would be from either Movant or Creditors, not implicating Debtor's property that became part of the Chapter 13 Estate.

The Motion, brought not by either Debtor nor Creditors, in substance seeks to have the court modify the stay to allow Creditors' claims to be prosecuted and defendant in State Court. In substance, Movant seeks to replace the normal claim and objection to claim process in federal court with the state court litigation.

From an initial review of these State Court proceedings, such a determination may well be proper and serve the interests of the parties (time and cost) and court (judicial economy and avoiding potentially duplicative federal and state court proceedings). However, such a request is for Debtor or Creditors to make, not the Movant, a corporation (asserted to be a separate legal entity) owned by Debtor.

Nor is it for Creditor to jump in to request some other relief from the automatic stay as part of Movant's Motion to allow Debtor to prosecute the claims objections in state court. Further, it is not proper to modify the automatic stay to allow for the dismemberment of estate assets by one creditor merely because the claims objection process be allowed to proceed in state court.

The court continues the hearing to allow Debtor, the party who must prosecute the claims objection, to come to the court and concur in this request for relief—clearly stating why he, Debtor, believes such relief is proper. This also allows Creditors to come in and state whether they concur in such relief or believe that the claims objection process should be conducted in this court rather than as part of the existing, multi-party State Court proceeding. Creditors can also offer legal authority for how claims they have against Debtor are not claims which must/shall/will be paid as provided in the confirmed Chapter 13 plan. FN.1.

FN.1. The court notes that Debtor, who purports to own Movant, failed to provide his declaration in support of the Motion. Rather, only the attorney for Movant provided a declaration seeking relief against, and the waiving of the right to have objections to claims determined in the bankruptcy court.

Therefore, the hearing is continued to 1:30 p.m. on August 29, 2017. Debtor and Creditors shall file and serve supplemental pleadings on or before August 15, 2017, and Replies, if any, filed and served on or before August 22, 2017.

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 Affiliated Professional Services, Inc. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the hearing on the Motion is continued to 1:30 p.m. on August 29, 2017.
>
> **IT IS FURTHER ORDERED** that William Thomas and Faye Thomas, Debtor, shall file and serve supplemental pleadings on or before August 15, 2017, stating whether they concur in the request, the scope to which the automatic stay should be modified against them, and whether they request that this court allow the State Court to determine the claims as asserted in the State Court Action by Glen Van Dyke and Dale Washington, which shall be binding on the determination of the claims asserted by them in this bankruptcy case.
>
> **IT IS FURTHER ORDERED** that Glen Van Dyke and Dale Washington shall file and serve supplemental pleadings on or before August 15, 2017, stating whether they concur in such relief or believe that the claims objection process should be conducted in this court rather than as part of the existing, multi-party State Court proceeding.
>
> Replies, if any, to the above supplemental pleadings shall be filed and served on or before August 22, 2017.

3.	**17-22862-E-13 APN-1**	**TESSA SMITH AND VALERIE SPECHT Mikalah Liviakis**	**MOTION FOR RELIEF FROM AUTOMATIC STAY 6-23-17 [24]**

HYUNDAI LEASE TITLING TRUST
VS.

Final Ruling: No appearance at the August 1, 2017 hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

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 June 23, 2017. 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). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is granted.

Tessa Smith and Valerie Specht ("Debtor") commenced this bankruptcy case on April 27, 2017. Hyundai Lease Titling Trust ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2014 Kia Soul, VIN ending in 6420 ("Vehicle"). The moving party has provided the Declaration of Gloria Greer to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Debtor.

The Gloria Greer Declaration provides testimony that Debtor has not made one post-petition payment, with a total of $174.84 in post-petition payments past due. The Declaration also provides evidence that there are three pre-petition payments in default, with a pre-petition arrearage of $524.52.

TRUSTEE'S RESPONSE

David Cusick, the Chapter 13 Trustee ("Trustee"), filed a Response on July 18, 2017. Dckt. 35. The Trustee's response states that the Trustee is not aware of any basis to oppose the motion. The Trustee

notes though that the plan lists a different creditor in Class 2 (i.e., GM Financial) and that the last payment appears to have come due already.

DISCUSSION

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.

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 Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

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.

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.

No points and authorities is provided in support of the Motion. This is not unusual for a relatively simple (in a legal authorities sense) motion for relief from stay as the one before the court. Other than referencing the court to the legal basis 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 heretofore unknown nascent stay is necessary.

As noted by another bankruptcy judge, such (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 Hyundai Lease Titling Trust and its counsel that all orders granting relief from the automatic stay are immediately terminated as to any relief granted Hyundai Lease Titling Trust and other creditors represented by counsel, and upon conversion, any action taken by such creditor is a *per se* violation of the automatic stay.

No other or additional relief is granted by the court.

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

Order Granting Motion for Relief

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 Hyundai Lease Titling Trust ("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 2014 Kia Soul ("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 not waived for cause.

No other or additional relief is granted.