

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

August 7, 2018 at 1:30 p.m.

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1.	<a href="#">17-24925</a> -C-13	DEO BUENAFLO	MOTION TO CONFIRM TERMINATION
	<a href="#">JCW</a> -1	Peter Macaluso	OR ABSENCE OF STAY AND/OR
			MOTION FOR RELIEF FROM
			AUTOMATIC STAY
			7-6-18 [ <a href="#">45</a> ]

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**Final Ruling:** No appearance at the August 7, 2018 hearing is required.

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

Correct 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 July 6, 2018. Twenty-eight 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). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). 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 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 denied as moot.**

U.S. Bank, N.A., seeks relief from the automatic stay with respect to the real property commonly known as 6004 Sawyer Circle, Sacramento, California.

The Vaenuku Declaration states that the Debtor has made no payments on the property. Debtor has not scheduled the property, however debtor has listed the property as his residence. The original borrower is deceased and Norah Buenaflor is listed as an heir. Debtor does not appear to be listed as an heir. Movant is not aware of any document that provides ownership interest to the debtor. Thus, the property is not property of the estate and therefore the automatic stay does not protect it.

The court determines that the property is not property of the estate and there does not appear to be any ownership interest owned by the debtor. The property was not listed as an asset on debtor's schedules.

The court shall issue a minute order denying the motion for relief from the automatic stay because the automatic stay does not apply to this property. As a result, the motion for relief from stay is moot.

Trustee filed a non opposition to the motion.

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 the creditor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion for Relief from Stay is denied as moot because the a property, 6004 Sawyer Circle, Sacramento, California, is not property of the estate in this bankruptcy case 17-24925.

No other or additional relief is granted.

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