

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

August 20, 2013 at 9:31 A.M.

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1. [13-22419](#)-B-7 TIM/HEIDI BRATTON MOTION FOR RELIEF FROM  
RCO-1 AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
7-9-13 [[28](#)]

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on June 25, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 5146 East Bonneyview Road, Redding, California 96001 (048-250-009) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees or costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make sixteen (16) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

2. [13-26529](#)-B-7 FELIPE/DARLA CARRILLO MOTION FOR RELIEF FROM  
ASW-1 AUTOMATIC STAY  
7-11-13 [[16](#)]  
BANK OF AMERICA, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a

discharge on August 7, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1451 Carter Way, Redding, CA 96002 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make five (5) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

The court will issue a minute order.

3. [13-20137](#)-B-7 ALFRED STEFFENS  
PD-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-12-13 [[21](#)]

WELLS FARGO BANK, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on May 3, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1318 Farrar Lane, Oroville, CA 95965 (030-340-037-000) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make fifteen (15) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion. The debtor has filed a statement of intent to surrender the Property.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

4. [12-26447](#)-B-7 KERRI BRUCE  
PD-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-18-13 [[65](#)]

WELLS FARGO BANK, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtor, the motion is dismissed as moot. The debtor received a discharge on July 18, 2013, and the automatic stay as to the debtor ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 6050 Saddleback Way, Sacramento, CA 95823 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seventeen (17) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

5. [09-39449](#)-B-7 ALBERT THOMAS

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-16-13 [[130](#)]

GAIL GUIDERA VS.

**Tentative Ruling:** The debtor's opposition is overruled, and the motion is granted in part. To the extent the movants seek the commencement or continuation to prosecute Sacramento Superior Court Case No. 34-2012-00126752, Wares, et al v. Thomas (the "State Court Action"), the motion is dismissed as moot. Pursuant to 11 U.S.C. § 362(a)(1), the automatic stay does not operate to stay the commencement or continuation of a judicial action or proceeding against the debtor for claims that arose after the commencement of this bankruptcy case. To the extent the movants seek commencement or continuation of the State Court Action to enforce, against property of the estate, any resulting judgment or settlement, that motion is denied. Except as so ordered, the motion is denied.

The movants seek relief from the automatic stay to continue the State Court Action. The debtor, in pro per, opposes the motion. The debtor's in pro per opposition is unpersuasive. The debtor alleges that the movants violated LBR 4001-1(a)(3) by failing to complete EDC 3-468 "Relief from Stay Summary Sheet," and that the motion should be denied on

this basis. However, all relevant information is contained in the movants' motion and exhibits attached thereto. In this case, the court declines to impose any sanctions on the movants for noncompliance with LBR 4001-1(a)(3). See LBR 1001(g). Furthermore, the debtor alleges that the claims asserted in the State Court Action arose pre-petition; that allegation is unpersuasive. According to the movants' evidence, the claims asserted in the State Court Action relate to a fire that occurred on or about June 29, 2010. See Fire Department Report, Exhibit B, Dkt. 132. This bankruptcy case was filed on September 10, 2009. Pursuant to 11 U.S.C. § 362(a)(1), the automatic stay does not operate to stay the commencement or continuation of a judicial action or proceeding against the debtor for claims that arose after the commencement of this bankruptcy case. Finally, the debtor's reliance on 11 U.S.C. 523(a)(6) is irrelevant to the current motion, as Section 523 of the Bankruptcy Code deals with exceptions to discharge and has no bearing on this court's determination of whether to grant relief from the automatic stay pursuant to 11 U.S.C. 362(d).

The court will issue a minute order.

6. [13-26850](#)-B-7      EVARISTO/JUANA JIMENEZ      MOTION FOR RELIEF FROM  
PD-1      AUTOMATIC STAY  
7-11-13 [[16](#)]  
  
PNC BANK, N.A. VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 10024 Tivoli Dr., Stockton, CA 95212 (122-050-26) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make eight (8) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

The court will issue a minute order.

7. [13-24476](#)-B-7 CLAUDIA CRUZ  
RCO-1

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
7-11-13 [[19](#)]

OCWEN LOAN SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtor, the motion is dismissed as moot. The debtor received a discharge on July 17, 2013, and the automatic stay as to the debtor ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 784 Long Barn Drive, Lathrop, CA 95330 (196-100-03) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make three (3) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

8. [13-22078](#)-B-7 MATTHEW MORGAN

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-3-13 [[31](#)]

EMERYVILLE DENTAL CARE/DR  
ROSE MAGNO VS.

**Tentative Ruling:** The motion is denied without prejudice.

The motion suffers from procedural defects. First, the movant failed to serve the debtor pursuant to Fed. R. Bankr. P. 7004. Service in a contested matter, such as this, must be made by first class mail. Here, the proof of service indicates that the debtor was served by email. Second, the movant failed to serve the debtor's attorney as required by Fed. R. Bankr. P. 7004(g). Third, the movant failed to cite or analyze any legal authority for the relief she seeks as required by LBR 9014-1(d)(5).

The court will issue a minute order.

9. [12-42190](#)-B-7 BRETT CURTIS AND VERONICA MOTION FOR RELIEF FROM  
RCO-1 VEGA - CURTIS AUTOMATIC STAY AND/OR MOTION  
FOR ADEQUATE PROTECTION  
7-10-13 [[22](#)]  
  
GREEN TREE SERVICING, LLC  
VS.

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on April 15, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 2345 Paloma Court #5, Pinole, CA 94564 (360-530-024-7 ("Property")) and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seventeen (17) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtors have filed a statement of intent to surrender the Property.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

10. [09-48233](#)-B-7 NARENDRA SHARMA MOTION TO AMEND AND/OR MOTION  
KAM-2 FOR RELIEF FROM AUTOMATIC STAY  
O.S.T.  
8-9-13 [[435](#)]  
  
JACKSON COUNTY DIRECTOR OF  
COLLECTIONS VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(3)(motions set on shortened time). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

11. [11-30525](#)-B-7 LINDA BACA  
SAN-2

CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
7-24-13 [[77](#)]

LESTER VAN PELT VS.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.