

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

**Honorable Ronald H. Sargis**  
Chief Bankruptcy Judge  
Sacramento, California

**August 30, 2022 at 1:30 p.m.**

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1.	<a href="#"><u>21-20109</u></a> -E-13 <a href="#"><u>ANF-2</u></a>	LARRY/DEBRA JACKSON Robert Huckaby	<b>CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY 7-1-22 <a href="#"><u>[126]</u></a></b>  <b>KEYPOINT CREDIT UNION VS.</b>
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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.

**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).**

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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, and Office of the United States Trustee on July 1, 2022. By the court’s calculation, 25 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.

<b>The Motion for Relief from the Automatic Stay is <span style="color:red">XXXXXXXXXX</span></b>
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KeyPoint Credit Union (“Movant”) seeks relief from the automatic stay with respect to an asset identified as a 2017 Ford Truck Escape, VIN ending in 8387 (“Vehicle”). The moving party has provided

the Declaration of Megan Pieracci to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Larry John Jackson and Debra Ann Jackson (“Debtor”).

Movant argues Debtor has not made 2 post-petition payments, with a total of \$676.36 in post-petition payments past due. Declaration, Dckt. 129.

### **TRUSTEE’S NONOPPOSITION**

On June 30, 2022, Chapter 13 Trustee filed a nonopposition to the Motion for Relief. Dckt. 23.

### **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 \$11,535.48 (Declaration, Dckt. 129), while the value of the Vehicle is determined to be \$15,700.00, as stated in Schedules A/B and D filed by Debtor. Movant claims there is lack of equity in the vehicle (Motion, Dckt. 126 at 4:12), however, the evidence shows there is around \$4,000 in equity.

At the hearing, Movant and Debtor reported that Debtor is current and that the parties are working out an adequate protection stipulation. The parties requested a continuance so that could be completed for this Contested Matter.

The court continues the hearing as requested by the Parties.

### **August 30, 2022 Hearing**

At the hearing, **XXXXXXXXXXXX**

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 KeyPoint Credit Union (“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 Motion for Relief from the Automatic Stay is  
**XXXXXXXXXXXX**

**PEARL INVESTMENT COMPANY,  
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.

**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).**

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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 August 10, 2022. By the court's calculation, 20 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 xx 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, -----

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<p><b>The Motion for Relief from the Automatic Stay is granted.</b></p>
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Pearl Investment Company, LLC. ("Movant") seeks relief from the automatic stay with respect to the real property commonly known as 7870 Locher Way, Apt. 7, Citrus Heights, California ("Property"). The moving party has provided the Declaration of Darryn Begun to introduce evidence as a basis for Movant's contention that Gregory John Moreno ("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 on April 21, 2022, in California Superior Court, County of Sacramento. Case No. 22UD01644, Exhibit 3, Dckt. 15. That State Court Action has been stayed by the commencement of this Bankruptcy Case.

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).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the Property, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

### **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 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 Pearl Investment Company, 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** that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 7870 Locher Way, Apt. 7, Citrus Heights, California.

**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.

# FINAL RULINGS

3. [22-21804](#)-E-13      ALISHA NEWHEY      MOTION FOR RELIEF FROM  
[RER-1](#)      Pro Se      AUTOMATIC STAY  
8-2-22 [\[12\]](#)

BIKRAM DHALIWAL VS.  
CASE DISMISSED: 08/08/2022

**Final Ruling:** No appearance at the August 30, 2022 hearing is required.  
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The case having previously been dismissed, the Motion is dismissed as moot.

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 Automatic Stay having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is dismissed as moot, the Bankruptcy Case having previously been dismissed.