UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

PRE-HEARING DISPOSITIONS

DAY: MONDAY
DATE: SEPTEMBER 16, 2019
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. 15-24202-A-7 **IN RE: CHERYL MCNEIL**
DNL-4

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH BNC AND/OR MOTION FOR COMPENSATION BY THE LAW OFFICE OF GWILLIAM IVORY CHIOSSO CAVALLI & BREWER, APC SPECIAL COUNSEL(S)
8-19-2019 [58]

GEORGE BURKE
J. HENDRIX/ATTY. FOR MV.
DEBTOR DISCHARGED: 09/21/2015; JOINT DEBTOR DISCHARGED: 09/21/2015

Also #2

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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on August 19, 2019. By the court's calculation, 28 days' notice was provided. 35 days' notice is required. Fed. R. Bankr. P. 2002(a)(3) (requiring twenty-one days' notice); Local Bankr. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Approval of Compromise 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 Motion for Approval of Compromise is xxxxx.

The Chapter 7 Trustee, Alan Fukushima ("Movant") requests that the court approve a compromise and settle competing claims and defenses with **BNC Mortgage, Inc.("Settlor").** The claims and disputes to be resolved by the proposed settlement pertain to the debtor, Cheryl Yuvette McNeil's ("Debtor") **employment law claims** against Settlor following Debtor's resignation in 2005.

Movant and Settlor have resolved these claims and disputes for **$600,000.00. However, no further terms or conditions of the Agreement are described, and no copy of the proposed Settlement Agreement was filed.**

Movant also seeks approval of fees in the amount of $240,000.00 and costs of $73,000.00 for the Chapter 7 Trustee's special counsel, Gwilliam Ivory Chiosso Cavalli & Brewer, APC ("Special Counsel"). Special Counsel was employed in August to pursue the claims proposed to be settled herein. Order, Dckt. 42. Special Counsel was hired on a contingent fee basis, which provided for reimbursement of expenses and either a 33 1/3 percent or 40 percent recovery depending on settlement before or after a trial date is set. Id.

DISCUSSION

Multiple Motions Joined as One

The court notes that this Motion attempts to join multiple claims for relief in one motion. The first being approval of compromise, and the second a motion for approval of compensation.

Though parties may join multiple claims in an adversary proceeding, with Federal Rule of Civil Procedure 18 being incorporated into Federal Rule of Bankruptcy Procedure 7018, Rule 18 has not been incorporated into bankruptcy contested matters (bankruptcy case motion, objection, application process). Fed. R. Bankr. P. 9014(b).

The court permits, in this type of limited circumstance, the joinder of the request to approve the settlement and the payment of the professional fees (if the employment has been approved by the court) in one motion.

Settlement Agreement

As discussed, supra, no settlement agreement was actually filed accompanying the Motion. As to the settlement, the Motion states the following with particularity (Fed. R. Bankr. P. 9013):

On August 14, 2019, subject to Court approval, the Trustee settled the BNC Claims in return for $600,000.00 payable to the bankruptcy estate.

Motion ¶ 10, Dckt. 58. No other terms that what is stated above are stated. If there are other terms to be approved by the court pursuant to Federal Rule of Bankruptcy Procedure 9019, those terms are not actually presented.

At the hearing, xxxxxxxxxxxxxx.

Approval of Compromise

Approval of a compromise is within the discretion of the court. U.S. v. Alaska Nat'l Bank of the North (In re Walsh Constr.), 669 F.2d 1325, 1328 (9th Cir. 1982). When a motion to approve compromise is presented to the court, the court must make its independent determination that the settlement is appropriate. Protective Comm. for Indep. S'holders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424–25 (1968). In evaluating the acceptability of a compromise, the court evaluates four factors:

1. The probability of success in the litigation;

2. Any difficulties expected in collection;

3. The complexity of the litigation involved and the expense, inconvenience, and delay necessarily attending it; and

4. The paramount interest of the creditors and a proper deference to their reasonable views.

In re A & C Props., 784 F.2d 1377, 1381 (9th Cir. 1986); see also In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

Movant argues that the four factors have been met.

Probability of Success

Movant argues this factor weighs in favor of settlement because "the underlying litigation was vigorously disputed."

No detail is actually provided as to the probability of success at trial. Therefore this factor is at best neutral.

Difficulties in Collection

Movant argues this factor supports settlement because it has been more than 10 years since BNC shut it doors and Lehman Brothers filed bankruptcy.

Movant's argument does not actually describe difficulties in collection, but merely concludes that BNC has shut its doors and Lehman Brothers filed bankruptcy. It is not known how much above $600,000.00 would be achieved at trial if successful, and it is not explained why $600,000.00 is easily obtained but greater amounts would be difficult to collect on.

This factor is neutral given the lack of information.

Expense, Inconvenience, and Delay of Continued Litigation

Movant argues the claims resolved herein have been defended against vigorously by Settlor, that a trial would be complex due to the fact intensive nature of retaliatory harassment claims, and the availability and reliability of witness testimony after 14 years.

Movant's arguments here are well-taken. The claims resolved herein are complex employment law claims, including harassment resulting in Debtor's ultimate resignation. Pursuing the claims at trial would result in great delay and additional litigation costs.

Paramount Interest of Creditors

Movant argues this factor is in the paramount interest of the creditors because the settlement is supported by the Movant and Debtor.

Here, the settlement would generate significant monies for the Estate, avoiding further delay and cost of litigation. This factor supports settlement.

Consideration of Additional Offers

At the hearing, the court announced the proposed settlement and requested that any other parties interested in making an offer to Movant to purchase or prosecute the property, claims, or interests of the estate present such offers in open court. At the hearing ----------.

Upon weighing the factors outlined in A & C Props and Woodson, the court determines that the compromise is in the best interest of the creditors and the Estate because the settlement would generate significant monies for the Estate, avoiding further delay and cost of litigation. The Motion is granted.

Request for Fees and Costs of Special Counsel

Special Counsel was employed in August to pursue the claims proposed to be settled herein. Order, Dckt. 42. Special Counsel was hired on a contingent fee basis, which provided for reimbursement of expenses and either a 33 1/3 percent or 40 percent recovery depending on settlement before or after a trial date is set. Id. Therefore, Movant seeks $240,000.00 (40 percent of $6000,000.00).

Movant also requests fees of $73,000.00. In support of the requested fees is an Itemized Advanced Costs filed as Exhibit B. Dckt. 62. There are two groups of costs therein: General Costs and Individual Costs.

The Individual Costs are as follows:

1. Experts/Consultants - $10,774.00

2. Fax - $8.00

3. Hotel/Travel - $664.59

4. Telephone - $114.48

The General Costs are stated to be $365,719.31. No description or itemization of these significant advanced costs is given. In the itemization, it is stated 1/6th of the general costs is $60,953.22.

This latter amount appears to be the amount requested–however, it is not explained why only 1/6th of the costs is requested.

At the hearing, xxxxxxxxxxxxxx.

~~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 Approve Compromise filed by Chapter 7 Trustee, Alan Fukushima ("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 Motion for Approval of Compromise between Movant and BNC Mortgage, Inc.("Settlor") is granted.~~

2. 15-24202-A-7 IN RE: CHERYL MCNEIL
DNL-5

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH GLOBAL INJURY FUNDING, LLC
8-19-2019 [64]

GEORGE BURKE
J. HENDRIX/ATTY. FOR MV.
DEBTOR DISCHARGED: 09/21/2015; JOINT DEBTOR DISCHARGED: 09/21/2015

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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on August 19, 2019. By the court's calculation, 28 days' notice was provided. 35 days' notice is required. Fed. R. Bankr. P. 2002(a)(3) (requiring twenty-one days' notice); Local Bankr. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Approval of Compromise 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 Motion for Approval of Compromise is xxxxx.

The Chapter 7 Trustee, Alan Fukushima ("Movant") requests that the court approve a compromise and settle competing claims and defenses with Global Injury Funding, LLC ("Settlor"). The claims and disputes to be resolved by the proposed settlement are Settlor's alleged **$48,725.00 claim secured by proceeds of Debtor's employment law claim (proposed to be settled for $600,000.00 by Movant's other motion set for hearing the same day as this Motion).**

Movant believes Settlor's claim should be an amount ranging from $19,123 to $24,343.

Movant and Settlor have resolved these claims and disputes for $24,362.50. However, no further terms or conditions of the Agreement are described, and no copy of the proposed Settlement Agreement was filed.

DISCUSSION

Settlement Agreement

As discussed, supra, no settlement agreement was actually filed accompanying the Motion. As to the settlement, the Motion states the following with particularity (Fed. R. Bankr. P. 9013):

Trustee has entered into a settlement with GIF that discounts the amounts of its asserted $48,725 claim by 50% to $24,362.50.

Motion ¶ 9, Dckt. 64. No other terms that what is stated above are stated. If there are other terms to be approved by the court pursuant to Federal Rule of Bankruptcy Procedure 9019, those terms are not actually presented.

At the hearing, xxxxxxxxxxxxxx.

Approval of Compromise

Approval of a compromise is within the discretion of the court. U.S. v. Alaska Nat'l Bank of the North (In re Walsh Constr.), 669 F.2d 1325, 1328 (9th Cir. 1982). When a motion to approve compromise is presented to the court, the court must make its independent determination that the settlement is appropriate. Protective Comm. for Indep. S'holders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424-25 (1968). In evaluating the acceptability of a compromise, the court evaluates four factors:

1. The probability of success in the litigation;

2. Any difficulties expected in collection;

3. The complexity of the litigation involved and the expense, inconvenience, and delay necessarily attending it; and

4. The paramount interest of the creditors and a proper deference to their reasonable views.

In re A & C Props., 784 F.2d 1377, 1381 (9th Cir. 1986); see also In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

Movant argues that the four factors have been met.

Probability of Success

Movant argues this factor weighs in favor of settlement because the proposed settlement amount is close to what Movant calculates is the actual amount the debtor owes on Settlor's claim.

This argument is well-taken. Notwithstanding success at trial, the best outcome anticipated by Movant is Settlor's claim being determined to be $19,123, which is very close to the settlement amount. This factor weighs in favor of settlement.

Difficulties in Collection

Movant argues this factor is neutral because the Estate is the defendant.

The Movant's argument is well-taken. Here, the Estate would not collect after a judgement and this factor is therefore neutral.

Expense, Inconvenience, and Delay of Continued Litigation

Movant argues that choice of law and public policy disputes relate to the Settlor's claim would likely result in appeals, and therefore would be costly and protracted.

This argument is well-taken. Based on the evidence presented, and the likelihood of subsequent appeals after a successful judgment,

Paramount Interest of Creditors

Movant argues this factor weighs in favor of settlement because Trustee and the debtor have expressed approval of the settlement.

Here, the settlement would determine Settlor's claim to be roughly what Movant argues it should be, reducing the Settlor's asserted claim by half while avoiding the cost and time of litigation. Therefore, settlement is in the paramount interest of creditors.

Consideration of Additional Offers

At the hearing, the court announced the proposed settlement and requested that any other parties interested in making an offer to Movant to purchase or prosecute the property, claims, or interests of the estate present such offers in open court. At the hearing ----------.

Upon weighing the factors outlined in A & C Props and Woodson, the court determines that the compromise is in the best interest of the creditors and the Estate because the settlement would determine Settlor's claim to be roughly what Movant argues it should be, reducing the Settlor's asserted claim by half while avoiding the cost and time of litigation. The Motion is granted.

~~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 Approve Compromise filed by Chapter 7 Trustee, Alan Fukushima ("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 Motion for Approval of Compromise between Movant and Global Injury Funding, LLC ("Settlor") is granted.~~

3. 19-24415-A-7 IN RE: VICTOR THOMAS

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE
7-15-2019 [5]

VICTOR THOMAS/ATTY. FOR MV.

An Application for Waiver of Chapter 7 filing fee has been filed by Victor Thomas ("Debtor"). The Debtor's family unit consists of one person (Debtor). Debtor's gross income is $198 (Schedule I, assistance). On Schedule J Debtor lists having ($518) a month in expenses.

At the hearing, Debtor explained xxxxxxxxxxxxxxx

The First Meeting of Creditors has not been concluded. The Debtor has appeared and the First Meeting has been continued multiple times.

The court finding that Debtor does not meet the financial guidelines for a fee waiver ($xxxxx), upon consideration of the Debtor's income, assets, the Schedules in this case, and the additional information provided at the hearing, the court denies grants the application for waiver of the Chapter 7 filing fees.

The court shall order an installment payment schedule for the Chapter 7 filing fees.

4. 19-23519-A-7 IN RE: MAIRA PINTO CHAVEZ DE GRIMA AND JOSE GRIMA HERNANDEZ
MDM-1

MOTION TO EXTEND TIME
8-15-2019 [25]

SETH HANSON
MICHAEL MCGRANAHAN/ATTY. FOR MV.

Final Ruling: No appearance at the September 16, 2019 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,, and Office of the United States Trustee on August 15, 2019. By the court's calculation, 32 days' notice was provided. 28 days' notice is required.

The Motion to Extend Deadline to File a Complaint Objecting to Discharge 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 to Extend Deadline to File a Complaint Objecting to Discharge is granted.

The Chapter 7 Trustee, Michael D. McGranahan ("Movant"), moves to extend the deadline to file a complaint objecting to the debtors, Maira Pinto Chavez De Grima and Jose Carlos Grima Hernandez's ("Debtor") discharge to allow Movant to obtain documentation necessary to complete its investigation of Debtor's finances.

The deadline for filing a complaint objecting to discharge was August 26, 2019. Dckt. 7. The Motion requests that the deadline to object to Debtor's discharge be extended to October 25, 2019.

The court may, on motion and after a noticed hearing, extend the time for objecting to the entry of discharge for cause. Fed. R. Bankr. P. 4004(b)(1). The court may extend that deadline where the request for the extension of time was filed prior to the expiration of time for objection. Id.

The instant Motion was filed before the deadline to object to the discharge of Debtor.

The court finds that in the interest of Movant to complete investigation, namely continuing to gather all necessary financial information about Debtor's assets, there is sufficient cause to justify an extension of the deadline. Therefore, the Motion is granted, and the deadline for Movant to object to Debtor's discharge is extended to October 25, 2019.

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 Extend Deadline to File a Complaint Objecting to Discharge filed by Chapter 7 Trustee, Michael D. McGranahan ("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 Motion is granted, and the deadline for Movant to object to Maira Pinto Chavez De Grima and Jose Carlos Grima Hernandez's ("Debtor") discharge is extended to October 25, 2019.

5. 19-23430-A-7 IN RE: CARRIE BLUBAUGH
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-14-2019 [10]

LEN REIDREYNOSO
JENNIFER WANG/ATTY. FOR MV.
ACAR LEASING LTD VS.

Final Ruling: No appearance at the September 16, 2019 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 7 Trustee, parties requesting special notice, and Office of the United States Trustee on August 14, 2019. By the court's calculation, 33 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.

Acar Leasing LTD dba GM Financial Leasing ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2019 Chevrolet Traverse, VIN ending in 9603 ("Vehicle"). The moving party has provided the Declaration of Aaron Rangel to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the debtor, Carrie Laree Blubaugh ("Debtor").

Movant argues Debtor has not made 2 post-petition payments, with a total of $2,098.92 in post-petition payments past due.

Declaration, Dckt. 13. Movant also provides evidence that there are 4 pre-petition payments in default, with a pre-petition arrearage of $4,197.84. Id.

On Debtor's Statement of Intention, she indicates the Vehicle is to be surrendered. Dckt. 1.

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 $55,684.66 (Declaration, Dckt. 13), while the value of the Vehicle is determined to be $50,000.00, as stated in Schedules B and D filed by Debtor. Dckt. 1.

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 Debtor's expressed intention to surrender the Vehicle. 11 U.S.C. § 362(d)(1); In re Ellis, 60 B.R. 432.

A debtor has no equity in property when the liens against the property exceed the property's value. Stewart v. Gurley, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd., 484 U.S. 365, 375–76 (1988). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either Debtor or the Estate. 11 U.S.C. § 362(d)(2). This being a Chapter 7 case, the Vehicle is per se not necessary for an effective reorganization. See Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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.

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 that the court grant relief from the Rule as adopted by the United States Supreme Court. Movant argues this relief is warranted because Debtor is 6 months delinquent and the vehicle is a depreciating asset.

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.

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 Acar Leasing LTD dba GM Financial Leasing ("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 2019 Chevrolet Traverse, VIN ending in 9603 ("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 waived for cause.

No other or additional relief is granted.

6. 19-22731-A-7 IN RE: CHARLES/CHRISTINE BENSON
RAS-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-21-2019 [28]

TRAVIS STROUD
SEAN FERRY/ATTY. FOR MV.
DEBTOR DISCHARGED: 08/13/2019; JOINT DEBTOR DISCHARGED: 08/13/2019; REVERSE MORTGAGE SOLUTIONS, INC. 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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on August 21, 2019. By the court's calculation, 26 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 denied without prejudice.

Reverse Mortgage Solutions, Inc., as servicer for Wilmington Savings Fund Society, FSB, as Trustee of Finance of America Structured Securities Acquisition Trust 2019-HB1("Movant") seeks relief from the automatic stay with respect to Charles Raymond Benson and Christine Elizabeth Benson's ("Debtor") real property commonly known as **17376 Bright Path, Anderson**, California ("Property"). Movant has provided the Declaration of Alicia Powers

to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

Movant argues **Debtor has not maintained tax and insurance payments, requiring Movant to advance $9,365.61 as of June 14, 2019. Declaration. Dckt. 30.**

APPLICABLE LAW

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).

A debtor has no equity in property when the liens against the property exceed the property's value. Stewart v. Gurley, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd., 484 U.S. 365, 375–76 (1988). 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). This being a Chapter 7 case, the Property is per se not necessary for an effective reorganization. See Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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 $598,000.92. Declaration, Dckt. 30.

Less clear is the value of the Property. The Property was not listed on Debtor's schedules, and Debtor did not list creditor's Claim on Schedule D.

Movant filed an appraisal report as Exhibit B, but the report was not authenticated. Dckt. 31. Furthermore, **Movant argues the**

document is excepted from the rule against hearsay based on Federal Rule of Evidence 803(8). However, the appraisal does not appear to be a public record which might fit under that rule.

Under the Movant's purported valuation, the Property would be worth $635,000.00. This amount is notably greater than the debt owing, leaving a $30,000+ equity cushion. Therefore, the Motion would not be granted pursuant to 11 U.S.C. § 362(d)(2), assuming Movant supplemented the record with evidence supporting its valuation.

While the Movant does provide evidence that tax and insurance costs are not being made by Debtor, it is unclear whether cause exists for relief because the existence and extent of an equity cushion are unknown.

At the hearing, xxxxxxxxxxxxxx.

~~Debtor was granted a discharge in this case on August 13, 2019. Dckt. 26. Granting of a discharge to an individual in a Chapter 7 case terminates the automatic stay as to that debtor by operation of law, replacing it with the discharge injunction. See 11 U.S.C. §§ 362(c)(2)(C), 524(a)(2). There being no automatic stay, the Motion is denied as moot as to Debtor. The Motion is granted as to the Estate.~~

~~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 Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.~~

Request for Attorneys' Fees

Movant requests attorney's fees of $931.00 and costs of $181.00. However, no contractual or statutory provision has been advanced showing entitlement to attorney's fees. Furthermore, a claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages. Fed. R. Civ. P. 54(d)(2)(A); Fed. R. Bankr. P. 7054, 9014.

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 that the court grant relief from the Rule as adopted by the United States Supreme Court. Movant argues this relief is warranted because once the stay is lifted, Debtor will not have an incentive to preserve the Property.

This argument is not well-taken. If Debtor failed to preserve the Property, Debtor would be "on the hook" for the consequences of

allowing the Property to waste. 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 (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 request (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 Movant and its counsel that all orders granting relief from the automatic stay are immediately terminated as to any relief granted Movant 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 Reverse Mortgage Solutions, Inc., as servicer for Wilmington Savings Fund Society, FSB, as Trustee of Finance of America Structured Securities Acquisition Trust 2019 ("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, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 17376 Bright Path, Anderson, California ("Property"), to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.~~

~~**IT IS FURTHER ORDERED** that to the extent the Motion seeks relief from the automatic stay as to Charles Raymond Benson and Christine Elizabeth Benson ("Debtor"), the discharge having been granted in this case, the Motion is denied as moot pursuant to 11 U.S.C. § 362(c)(2)(C) as to Debtor.~~

~~**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.~~

7. 19-25043-A-7 IN RE: JOHN CATALANO AND HEATHER CRAWFORD
MS-1

MOTION TO AVOID LIEN OF CAVALRY SPV I, LLC
8-16-2019 [11]

MARK SHMORGON
NON-OPPOSITION

Final Ruling: No appearance at the September 16, 2019 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 Creditor, Chapter 7 Trustee, and Office of the United States Trustee on August 16, 2019. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion to Avoid Judicial Lien 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 to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of Cavalry SPV I, LLC ("Creditor") against property of the debtors, John Catalano and Heather Crawford("Debtor") identified as $358.38 cash monies.

An Earnings Withholding Order was entered against Debtor in favor of Creditor in the amount of $1,838.55. Exhibit D, Dckt. 13. Pursuant to that order, the Los Angeles County Sheriff's Department levied

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of $358.38 as of the petition date. Dckt. 1. Debtor has claimed an exemption pursuant to California Code of Civil

Procedure § 703.140(b)(5) in the amount of $358.38 on Amended Schedule C. Dckt. 16.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

ISSUANCE OF A COURT-DRAFTED ORDER

An order (not a minute order) substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by John Catalano and Heather Crawford ("Debtor") 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 Earnings Withholding Order of Cavalry SPV I, LLC , California Superior Court for Los Angeles County Case No. 34201300154930CLCLGDS is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

IT IS FURTHER ORDERED that the Los Angeles County Sheriff's Department shall return to Debtor $358.38 being held pursuant to the avoided Earnings Withholding Order.

8. 18-26464-A-7 IN RE: TERRY HERTZ
BHS-2

MOTION FOR COMPENSATION FOR BARRY H. SPITZER, TRUSTEES ATTORNEY(S)
8-16-2019 [64]

STANLEY BERMAN
DEBTOR DISCHARGED: 02/05/2019

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.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Not Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on August 16, 2019. By the court's calculation, 31 days' notice was provided. 35 days' notice is required. Fed. R. Bankr. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed $1,000.00); Local Bankr. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Allowance of Professional Fees 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 Allowance of Professional Fees is ~~granted.~~

The Law Office of Barry Spitzer, the Attorney ("Applicant") for the Chapter 7 Trustee, Douglas M. Whatley ("Client"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period February 5, 2019, through August 16, 2019. The order of the court approving employment of Applicant was entered on February 19, 2019. Dckt. 30. Applicant requests fees in the **amount of $3,120.50 and costs in the amount of $21.45.**

APPLICABLE LAW

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney's services, the manner in which services were performed, and the results of the services, by asking:

A. Were the services authorized?

B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?

C. Are the services documented adequately?

D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?

E. Did the attorney exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing In re Mednet, 251 B.R. at 108; Leichty v. Neary (In re Strand), 375 F.3d 854, 860 (9th Cir. 2004)).

Lodestar Analysis

For bankruptcy cases in the Ninth Circuit, "the primary method" to determine whether a fee is reasonable is by using the lodestar analysis. Marguiles Law Firm, APLC v. Placide (In re Placide), 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing Yermakov v. Fitzsimmons (In re Yermakov), 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves "multiplying the number of hours reasonably expended by a reasonable hourly rate." Id. (citing In re Yermakov, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis cab be appropriate, however. See id. (citing Unsecured Creditors' Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood), 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.), 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

Reasonable Billing Judgment

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and

reasonable. In re Puget Sound Plywood, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery," as opposed to a possible recovery. Id.; see also Brosio v. Deutsche Bank Nat'l Tr. Co. (In re Brosio), 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) ("Billing judgment is mandatory."). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

(a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?

(b) To what extent will the estate suffer if the services are not rendered?

(c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958–59 (citing In re Wildman, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant's services for the Estate include communicating with Client, general case administration, reviewing sale related documents, and preparing this fee application. The Estate has $44,995.70 of unencumbered monies to be administered as of the filing of the application. The court finds the services were beneficial to Client and the Estate and were reasonable.

FEES AND COSTS & EXPENSES REQUESTED

Fees

Applicant did not provide a task billing analysis. However, the billing statement for services is very brief and clear. Applicant's services included communicating with Client, general case administration, reviewing sale related documents, and preparing this fee application. Exhibit A, Dckt. 68.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professionals and Experience	Time	Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
Barry Spitzer	7.9	$395.00	$3,120.50
Total Fees for			$3,120.50

Period of Application			

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of $21.45 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Cost
Postage	$8.25
Copies	$13.20
Total Costs Requested in Application	$21.45

FEES AND COSTS & EXPENSES ALLOWED

Fees

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of $3,120.50 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Costs & Expenses

First and Final Costs in the amount of $21.45 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

The court authorizes the Chapter 7Trustee to pay the fees and costs allowed by the court.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees $3,120.50
Costs and Expenses $21.45

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

~~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 Allowance of Fees and Expenses filed by Law Office of Barry Spitzer, the Attorney ("Applicant") for the Chapter 7 Trustee, Douglas Whatley ("Client") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Law Office of Barry Spitzer is allowed the following fees and expenses as a professional of the Estate:

Law Office of Barry Spitzer, Professional employed by the Chapter 7 Trustee

Fees in the amount of $3,120.50
Expenses in the amount of $21.45,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for the Chapter 7 Trustee.

IT IS FURTHER ORDERED that the Chapter 7 Trustee is authorized to pay the fees and costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

9. 18-26464-A-7 IN RE: TERRY HERTZ
DMW-5

MOTION FOR COMPENSATION FOR NORTHSTATE AUCTIONS, INC., AUCTIONEER(S)
8-15-2019 [58]

STANLEY BERMAN
BARRY SPITZER/ATTY. FOR MV.
DEBTOR DISCHARGED: 02/05/2019

The court issued an Order on September 9, 2019, denying this Motion for Allowance of Professional Fees without prejudice based on insufficient notice. Civil Minutes, Dckt. 76. **This matter is removed from the Calendar.**

10. 18-20177-A-7 IN RE: DAVID BENJAMIN
DNL-8

MOTION FOR ADMINISTRATIVE EXPENSES
8-19-2019 [105]

DAVID MEEGAN
J. HENDRIX/ATTY. FOR MV.
DEBTOR DISCHARGED: 04/16/2018; JOINT DEBTOR DISCHARGED: 04/16/2018

Final Ruling: No appearance at the September 16, 2019, 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, creditors, parties requesting special notice, and Office of the United States Trustee on August 19, 2019. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

The Motion for Allowance of Administrative Expenses 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 Allowance of Administrative Expenses is granted.

The Chapter 7 Trustee, J. Michael Hopper ("Movant") requests payment of administrative expenses in the amount of $18,723.00 to the IRS and $12,777.00 to the FTB for taxes incurred by the Estate incurred during the fiscal year ending in June 30, 2019.

DISCUSSION

Section 503(b)(1)(B) of the Bankruptcy Code accords administrative expense status to taxes incurred by the Estate. Therefore, the Motion is granted and the Movant is authorized to pay $18,723.00 to the IRS and $12,777.00 to the FTB for taxes incurred by the Estate incurred during the fiscal year ending in June 30, 2019.

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 Allowance of Administrative Expense filed by Chapter 7 Trustee, J. Michael Hopper ("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 Motion is granted and the Movant is authorized to pay $18,723.00 to the Internal Revenue Service and $12,777.00 to the California Franchise Tax Board as administrative expenses of the Chapter 7 Estate in this case pursuant to 11 U.S.C. § 503(b)(1).

11. 19-24882-A-7 IN RE: VINCENT PORTANIER
BP-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-30-2019 [11]

LEESA WEBSTER
VALERIE PEO/ATTY. FOR MV.
THE GOLDEN ONE CREDIT UNION VS.; NON-OPPOSITION

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, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on August 30, 2019. By the court's calculation, 17 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 7 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.

The Golden 1 Credit Union ("Movant") seeks relief from the automatic stay with respect to an asset identified as a **2014 Chevrolet Malib**u, VIN ending in 0724 ("Vehicle"). The moving party has provided the Declaration of Wes Motchman to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Vincent Paul Portanier ("Debtor").

Movant argues Debtor has not made 1 post-petition payment, with a total of $422.81 in post-petition payments past due. Declaration, Dckt. 13.

Debtor's Statement of Intention indicates the Vehicle is to be surrendered. Dckt. 1.

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 $11,764.09 (Declaration, Dckt. 13), while the value of the Vehicle is determined to be $11,704.64, as stated in Schedules B and D filed by Debtor. Dckt. 1.

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 Debtor's expressed intent to surrender the Vehicle. 11 U.S.C. § 362(d)(1); In re Ellis, 60 B.R. 432.

A debtor has no equity in property when the liens against the property exceed the property's value. Stewart v. Gurley, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd., 484 U.S. 365, 375–76 (1988). 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). This being a Chapter 7 case, the Property is per se not necessary for an effective reorganization. See Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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 Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for

any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

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. Movant argues this relief is warranted because Debtor is not making payments, intends to surrender the Vehicle, and because the Vehicle is a depreciating asset.

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.

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 Golden 1 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 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 Chevrolet Malibu, VIN ending in 0724 ("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 waived for cause.

No other or additional relief is granted.

12. 19-24296-A-7 IN RE: NA VANG
MC-1

MOTION TO AVOID LIEN OF SIERRA CENTRAL CREDIT UNION
8-16-2019 [14]

MUOI CHEA
RESPONSIVE PLEADING

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.

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 Creditor, Chapter 7 Trustee, and Office of the United States Trustee on August 16, 2019. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion to Avoid Judicial Lien 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 Motion to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of **Sierra Central Credit Union** ("Creditor") against property of the debtor, Na Yer Vang ("Debtor") commonly known as **199 Cathcart Avenue**, Sacramento, California ("Property").

A **judgment was entered against Debtor in favor of Creditor in the amount of $12,359.63**. Exhibit D, Dckt. 17. An abstract of judgment was recorded with Sacramento County on January 17, 2019, that encumbers the Property. Id.

Creditor filed an Opposition on August 29, 2019, arguing that based on Debtor's Schedules, there was equity to cover the entirety of Creditors lien, and therefore the Motion should be denied. Dckt. 19.

Debtor filed a Response on September 7, 2019, along with Amended Schedules. Dckts. 22, 25-26. **Debtor argues that with the increased exemption claimed on Amended Schedule C, the Creditor's lien should be avoided in amounts in excess of $4,392.69.**

DISCUSSION

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of $250,000.00 FN.1. as of the petition date. Dckt. 1. The unavoidable and senior liens that total $145,607.31 as of the commencement of this case are stated on Debtor's Schedule D. Dckt. 1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of $100,000.00 on Amended Schedule C. Dckt. 26.

FN.1. Schedule A states "Value based on comparable sales. Market Value is $250,000 minus cost of sales of $20,000 equals $230,000 liquidation value." Schedule A, Dckt. 1. The relevant value for this Motion is the fair market value, not the "liquidation value."

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided in excess of $4,392.69 subject to 11 U.S.C. § 349(b)(1)(B).

ISSUANCE OF A COURT-DRAFTED ORDER

An order (not a minute order) substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by Na Yer Vang ("Debtor") 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 judgment lien of Sierra Central Credit Union , California Superior Court for Sacramento County Case No. 34-2017-00222801, recorded on January 17, 2019, Document No. 201901170852, with the Sacramento County Recorder, against the real property commonly known as 199 Cathcart Avenue, Sacramento, California, is avoided in its entirety for all amounts in excess of $4,392.69 pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

13. 19-24597-A-7 IN RE: IGOR CHEPEL

MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE
7-22-2019 [2]

GARY FRALEY

An Application for Waiver of Chapter 7 filing fee has been filed by Igo Chepel ("Debtor"). The Debtor's family unit consists of Three persons (Debtor, non-debtor spouse, and child). Debtor's gross income is $2,829.00 (Schedule I; Social Security and business income).

The First Meeting of Creditors has been concluded and the Trustee has filed his report of there being no assets to be distributed in this case. Trustee's September 12, 2019 Docket Entry Report.

The court finding that Debtor does not meet the financial guidelines for a fee waiver ($2,666.25), upon consideration of the Debtor's income, assets, the Schedules in this case, and the additional information provided at the hearing, **the court denies grants the application for waiver of the Chapter 7 filing fees.**

The court shall order an installment payment schedule for the Chapter 7 filing fees.

14. 19-22999-A-7 IN RE: MELVIN LUMAUOD AND SHERRY AUSTRIA-LUMAUOD
ASW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-14-2019 [46]

GARY FRALEY
CAREN CASTLE/ATTY. FOR MV.
THE BANK OF NEW YORK MELLON VS.

Final Ruling: No appearance at the September 16, 2019, 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 7 Trustee, and Office of the United States Trustee on August 14, 2019. By the court's calculation, 33 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.

Bank of New York Mellon fka The Bank of New York, As Trustee For The Certificateholders Of Cwalt, Inc., Alternative Loan Trust 2006-OC10, Mortgage Pass-Through Certificates, Series 2006 ("Movant") seeks relief from the automatic stay with respect to the debtors', Melvin Gargaceran Lumauod and Sherry Kathryn Austria-Lumauod's ("Debtor") real property commonly known as 2911 Carlingford Lane, Vallejo, California ("Property"). Movant has provided the Declaration of Jeffrey Smith to introduce evidence to

authenticate the documents upon which it bases the claim and the obligation secured by the Property.

Movant argues Debtor has not made 4 post-petition payments, with a total of $15,873.59 in post-petition payments past due. Declaration, Dckt. 50.

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 $687,358.53 (Declaration, Dckt. 50), while the value of the Property is determined to be $631,726.00, as stated in Schedules B and D filed by Debtor. Dckt. 1.

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.

A debtor has no equity in property when the liens against the property exceed the property's value. Stewart v. Gurley, 745 F.2d 1194, 1195 (9th Cir. 1984). Once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity in property, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. 11 U.S.C. § 362(g)(2); United Sav. Ass'n of Texas v. Timbers of Inwood Forest Assocs. Ltd., 484 U.S. 365, 375–76 (1988). 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). This being a Chapter 7 case, the Property is per se not necessary for an effective reorganization. See Ramco Indus. v. Preuss (In re Preuss), 15 B.R. 896 (B.A.P. 9th Cir. 1981).

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

Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

Request for Attorneys' Fees

In the Motion, almost as if an afterthought, Movant requests that it be allowed attorneys' fees. The Motion does not allege any contractual or statutory grounds for such fees (other than to state Movant seeks the fees "pursuant to the Security Agreement"). No dollar amount is requested for such fees. No evidence is provided of Movant having incurred any attorneys' fees or having any obligation to pay attorneys' fees. Based on the pleadings, the court would either: (1) have to award attorneys' fees based on grounds made out of whole cloth, or (2) research all of the documents and California statutes and draft for Movant grounds for attorneys' fees, and then make up a number for the amount of such fees out of whole cloth. The court is not inclined to do either.

Furthermore, a claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages. Fed. R. Civ. P. 54(d)(2)(A); Fed. R. Bankr. P. 7054, 9014.

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 the Bank of New York Mellon fka The Bank of New York, As Trustee For The Certificateholders Of Cwalt, Inc., Alternative Loan Trust 2006-OC10, Mortgage Pass-Through Certificates, Series 2006-OC10 ("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, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 2911 Carlingford Lane, Vallejo, California, ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

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.