

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

Honorable Christopher D. Jaime  
1200 I Street, Suite 200  
Modesto, California

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: October 1, 2024**

**CALENDAR: 1:00 P.M. CHAPTER 13**

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 and no appearance is necessary. 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 seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Modesto, California

October 1, 2024 at 1:00 p.m.

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1. [24-90206](#)-B-13    LUIS MEJIA AND MARTA    MOTION FOR RELIEF FROM  
[DWE](#)-1    SAAVEDRA CADENA    AUTOMATIC STAY  
Drew Henwood    8-23-24 [[50](#)]  
FREEDOM MORTGAGE CORPORATION  
VS.

**Final Ruling**

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to deny the motion without prejudice for relief from automatic stay.

Freedom Mortgage Corporation ("Movant") seeks relief from the automatic stay with respect to real property commonly known as 4409 Dandelion Court, Salida, California (the "Property"). Movant has provided the Declaration of Michael Knaack to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property.

The Knaack Declaration states that there are three post-petition payments in default totaling \$4,710.72.

From the evidence provided to the court, and only for purposes of this motion, the total debt secured by this Property is determined to be \$201,039.14 as stated in the Knaack Declaration and Schedule D filed by the Debtors. The value of the Property is determined to be \$448,308.00 as stated in Schedules A/B and D filed by Debtors.

**Discussion**

In a motion brought under § 362(d)(1), the party seeking relief bears the burden on the issue of the debtor's equity - or lack thereof - in property. 11 U.S.C. § 362(g)(1). Creditor has not met this burden.

Movant states in its motion that the Property has a value of \$448,308.00. This value corresponds with that listed by Debtors in Schedule A/B and D.

Schedules are filed under penalty of perjury. See Fed. R. Bankr. P. 1008. Some courts treat schedules as evidentiary admissions under Federal Rule of Evidence 801(d)(2). *Heath v. American Express Travel Related Services Co., Inc. (In re Heath)*, 331 B.R. 424, 431 (9th Cir. BAP 2005). Others treat them as judicial admissions. *In re Roots Rents, Inc.*, 420 B.R. 28, 40 (Bankr. D. Utah). Whatever their status, schedules carry evidentiary weight. *Perfectly Fresh Farms, Inc. v. U.S. Dep't of Agric.*, 692 F.3d 960, 969-70 (9th Cir. 2012). Therefore, for purposes of this motion only, the court relies

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on Schedule A/B to value the Property at \$448,308.00.

The Ninth Circuit has held that an equity cushion of 20% provides sufficient adequate protection, even in the absence of ongoing payments. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1400-01 (9th Cir. 1984). Here, Creditor claims it is owed \$201,039.14 as of August 2024. Based on the Property's \$448,308.00 value, that leaves equity of \$247,268.86, which in turn creates an equity cushion of 55.156%. Creditor is therefore adequately protected, even in the absence of postpetition payments.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

