



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

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: MONDAY**  
**DATE: OCTOBER 7, 2024**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

---

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Remote Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including screen shots or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

## PRE-HEARING DISPOSITION INSTRUCTIONS

---

### RULINGS

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

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

---

1. [19-22509](#)-A-7     **IN RE: ULISES MEZA**  
[DNL-8](#)

MOTION TO SELL  
8-20-2024    [\[174\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.  
DEBTOR DISCHARGED: 01/07/22

### **Final Ruling**

**Motion:** Sell Property

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied

**Order:** Civil Minute Order

**Property:** Estate's interest in 6325 Requa Way, Sacramento, California

**Buyer:** Debtor

**Sale Price:** \$220,000

**Sale Type:** Private sale not subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order approving the sale of the bankruptcy estate's interest in the subject property to the debtor in the amount of \$220,000. The motion specifically states that the sale is not subject to overbidding. The trustee contends:

The proposed purchase price will generate net proceeds equivalent to that of traditional third-party sale based on the Debtor's scheduled value, costs of sale, liens, encumbrances, and claims of interest that have been asserted or could be asserted against the Subject Property. The Trustee has not received a higher or otherwise better offer for the Subject Property. As such, the proposed sale to the Debtor is a good faith effort by the Trustee to maximize the net return to the estate on account of the Subject Property.

Motion, 3:21-26, ECF No. 174.

### **SALES**

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the

Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1).

However, the proposed sale has been noticed without the opportunity for over-bidding and it does not appear that the sale will pay all claims, including administrative claim 100%. Moreover, there is always the possibility that a late claim will be filed.

The court finds that the proposed sale, which has been proposed as not subject to overbidding, is not in the best interests of the estate. Accordingly, the court will deny the motion.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The Chapter 7 trustee's motion to approve sale not subject to overbidding has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied.

2. [23-23129](#)-A-7     **IN RE: JOHN/ANGELA BOWMAN**  
[TBG-10](#)

MOTION TO AVOID LIEN OF AMUR EQUIPMENT FINANCE, INC.  
9-3-2024    [\[104\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 12/26/23

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 1314 Redcliff Lane, Lincoln, California

**Judicial Lien Avoided:** \$100,425.69 Amur Equipment Finance, Inc.

**All Other Liens:**

- Deed of Trust - \$444,297.00, PennyMac Loan Services, LLC
- Statutory Lien - \$101,176.00, Internal Revenue Service
- Statutory Lien - \$10,039.00, Internal Revenue Service
- Judicial Lien - \$66,040.57; Tri Counties Bank

**Exemption:** \$653,037.00

**Value of Property:** \$653,037.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtors seek an order avoiding the judicial lien of Amur Equipment Finance, Inc., under 11 U.S.C. § 522(f).

### **LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all

other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

#### **REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$100,425.69 Amur Equipment Finance, Inc.; and (ii) \$66,040.57, Tri Counties Bank. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$653,037.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$1,375,015.26. The value of the property is \$653,037.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

3. [23-23129](#)-A-7     **IN RE: JOHN/ANGELA BOWMAN**  
[TBG-11](#)

MOTION TO AVOID LIEN OF TRI COUNTIES BANK  
9-3-2024    [\[109\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 12/26/23

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 1314 Redcliff Lane, Lincoln, California

**Judicial Lien Avoided:** \$66,040.57; Tri Counties Bank

**All Other Liens:**

- Deed of Trust - \$444,297.00, PennyMac Loan Services, LLC
- Statutory Lien - \$101,176.00, Internal Revenue Service
- Statutory Lien - \$10,039.00, Internal Revenue Service

**Exemption:** \$653,037.00

**Value of Property:** \$653,037.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtors seek an order avoiding the judicial lien of Tri Counties Bank under 11 U.S.C. § 522(f).

### **LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption



that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

#### **REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C. § 522(f)(2)(B).

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$100,425.69 Amur Equipment Finance, Inc.; and (ii) \$66,040.57, Tri Counties Bank. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$653,037.00 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$1,274,589.57. The value of the property is \$653,037.00. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

4. [24-22434](#)-A-7     **IN RE: BILL/ROSANN EADS**  
[GAL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-29-2024    [\[14\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.  
GARRY MASTERSON/ATTY. FOR MV.  
TOYOTA INDUSTRIES COMMERCIAL FINANCE, INC. VS.  
DEBTORS DISCHARGED: 09/03/24

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** (3) 2021 Hang Cha FP35 Forklifts

**Value of Collateral:** Forklift 1 - \$9,000; Forklift 2 - \$9,000;  
Forklift 3 - \$9,000

**Aggregate of Liens:** Forklift 1 - \$24,223.99; Forklift 2 -  
\$24,000.51; Forklift 3 - \$24,056.49

**Discharge:** September 3, 2024

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Toyota Industries Commercial Finance, Inc., seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a), so that it may proceed with its remedies under state law regarding (3) 2021 Hang Cha FP35 Forklifts.

### **DEFAULT OF RESPONDENT**

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated* by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R.

476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g) (2).

#### As to the Debtor

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c) (2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

#### As to the Estate

"[A]fter notice and a hearing," the court may terminate, annual, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a) (1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g) (1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g) (2).

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Toyota Industries Commercial Finance, Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest

of the trustee in the property described in the motion, commonly known as (3) 2021 Hang Cha FP35 Forklifts. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c) (2) (C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a) (3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [24-23835](#)-A-7      **IN RE: IL P AND L INVESTMENTS LLC**  
[DAT-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-20-2024    [\[23\]](#)

ANH TRINH/ATTY. FOR MV.  
JEFF PLOCHER VS.

#### **Tentative Ruling**

**Motion:** Stay Relief under § 362(d) (4)

**Notice:** LBR 9014-1(f) (2); non-opposition filed by trustee

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 725 Tuolumne Street, Vallejo, California

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Movant seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). Relief is sought under 11 U.S.C. § 362(d) (1), (4).

#### **SECTION 362 (d) (4)**

Section 362(d) (4) authorizes binding, in rem relief from stay with respect to real property "if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d) (4).

The B.A.P. has specified the elements for relief under this subsection of § 362. "To obtain relief under § 362(d) (4), the court

must find three elements to be present. [1] First, debtor's bankruptcy filing must have been part of a scheme. [2] Second, the object of the scheme must be to delay, hinder, or defraud creditors. [3] Third, the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor's consent or court approval, or (b) multiple bankruptcy filings affecting the property." *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012) (footnote omitted). [4] Fourth, the movant creditor must be a creditor whose claim is secured by real property. *In re Ellis*, 523 B.R. 673, 678 (B.A.P. 9th Cir. 2014) ("Applying its plain meaning, this provision of the Code authorizes a bankruptcy court to grant the extraordinary remedy of in rem stay relief only upon the request of a creditor whose claim is secured by an interest in the subject property.").

An order entered under this subsection must be recorded in compliance with state law to "be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order." § 362(d) (4).

## APPLICATION

### Property Transfers

The subject property has been transferred multiple times as follows:

Transfer Date	Transferred By	Transferred To
May 21, 2024	Octopus P&L Investment, LLP	Christa Blackwell
July 17, 2024	Octopus P&L Investment, LLP	Stephen E. Saeger; Christa Blackwell; Octopus P & L Investment, LLP
February 9, 2024	Octopus P&L Investment, LLP	Isiah Lewis
June 21, 2024	Isiah Lewis	Octopus P & L Investment, LLP

### Multiple Bankruptcy Filings

Additionally, there are multiple bankruptcies filed impacting the subject property. The bankruptcy filings and multiple owners of property have prohibited the movant from completing a noticed foreclosure sale on: June 20, 2024; August 7, 2024; and caused the rescission of a sale conducted on September 7, 2024.

Case Number	Name	Date Filed	Chapter	Date Dismissed
23-22727	Isiah Lewis	August 14, 2023	13	October 19, 2023
23-23760	Isiah Lewis	October 14, 2023	13	November 14, 2023

24-20010	Octopus P&L Investments LLC	January 3, 2024	7	February 14, 2024
24-20529	Octopus P&L Investments, LLC	February 12, 2024	7	March 11, 2024
24-20959	Octopus P&L Investments LLC	March 12, 2024	7	June 11, 2024
24-22195	Christa Blackwell	May 21, 2024	7	July 30, 2024
24-23433	Stephen Saeger	August 2, 2024	7	August

The instant case filed on August 28, 2024. The court notes that a previous order granting relief from stay under 11 U.S.C. § 362(d) (4) was entered against the subject property. However, the order was entered on August 29, 2024, the day following the filing of the instant petition. See *In re Stephen Saeger*, 24-23433, E.D. Cal. (2024), Order on Motion for Relief From Automatic Stay, ECF No. 29.

That order states in part:

*This Order shall be binding and effective in any other case under the Bankruptcy Code purporting to affect the subject real property filed not later than two years after the date of entry, upon recording a copy of the order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law, except that a debtor in subsequent case may move for relief from the order based upon good cause shown after notice and hearing;*

*Id.*, (emphasis added).

As such, the in-rem order granted in the previous case does not apply to the instant case.

Accordingly, the court finds that the filing of the petition in this case was part of a scheme to delay, hinder, or defraud creditors that involved transfer of all or part ownership of, or other interest in the subject property without the consent of the secured creditor or court approval; and multiple bankruptcy filings affecting the subject real property. 11 U.S.C. § 362(d) (4). The court will grant the motion.

#### **CIVIL MINUTE ORDER**

Jeffrey Plocher's motion for relief from the automatic stay under § 362(d) (4) has been presented to the court. Having rendered findings of fact and conclusions of law orally on the record pursuant to Fed. R. Civ. P. 52, as incorporated by Fed. R. Bankr. P. 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated with respect to real property commonly known as 725 Tuolumne Street, Vallejo, California.

IT IS FURTHER ORDERED, under 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property.

6. [24-23835](#)-A-7      **IN RE: IL P AND L INVESTMENTS LLC**  
[FEC-1](#)

ORDER TO SHOW CAUSE  
8-29-2024    [\[8\]](#)

### **Tentative Ruling**

**Motion:** Order to Show Cause

**Disposition:** Sustained - Case Dismissed

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **FACTS**

On August 28, 2024, the debtor, IL P and L Investments, LLC, filed a Chapter 7 bankruptcy petition. The petition was not signed by an attorney, ECF No. 1. The debtor is a limited liability company (LLC).

On August 29, 2024, the court issued an order to show cause, stating its intent to dismiss the case absent good cause shown. The debtor did not file any opposition to the order to show cause as ordered.

### **CORPORATE DEBTOR MAY NOT APPEAR IN PRO SE**

"It is a longstanding rule that corporations, limited liability companies, and other unincorporated associations must appear in court through an attorney", *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004).

Rule 183 of the Local Rules of Practice of the United States District Court for the Eastern District of California, incorporated and made applicable in bankruptcy cases by Local Bankruptcy Rule 1001-1(c), also states that a corporation or other entity may appear only by an attorney.

An attorney must sign the petition on behalf of the debtor, and the debtor may only proceed with this bankruptcy case if represented by an attorney because "an LLC, by virtue of its structure and limited liability features, fits comfortably within the Bankruptcy Code's definition of 'corporation....' ", *Gilliam v. Speier* (In re KRSM Props., LLC), 318 B.R. 712, 717 (9th Cir. BAP 2004); the court has the authority under Fed. R. Bankr. P.

The debtor is still not represented by an attorney and has failed to file opposition to the court's order to show cause. Accordingly, the order to show cause will be granted and the case dismissed.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Having entered the default of debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the court's order to show cause is sustained and the case is dismissed.

7. [24-21141](#)-A-7     **IN RE: ANTHONY BAGATELOS**  
[ELS-1](#)

CONTINUED MOTION TO AVOID LIEN OF DISCOVER BANK  
7-20-2024    [\[20\]](#)

ERIC SEYVERTSEN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 07/22/24

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 2944 Bieghle Street, Stockton, California

**Judicial Lien Avoided:** \$20,528.72; Discover Bank

**All Other Liens:**

- Deed of Trust; \$355,539.00; Midland Mortgage Co.

**Exemption:** \$150,661.00

**Value of Property:** \$506,200.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before



the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order avoiding the judicial lien of Discover Bank under 11 U.S.C. § 522(f).

#### **LIEN AVOIDANCE**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

8. [24-23047](#)-A-7     **IN RE: REGINA JACKSON**  
[EJS-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-5-2024     [\[23\]](#)

ERIC SCHWAB/ATTY. FOR MV.  
PROJECT MANAGEMENT INC./PUERTA VILLA WEST VS.  
TRUSTEE NON-OPPOSITION

#### **Final Ruling**

The case was dismissed on September 24, 2024. Accordingly, this motion will be removed from the calendar as moot. No appearances are required.

9. [19-27157](#)-A-7     **IN RE: LYNDIA LLOYD**  
[KAZ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-5-2024    [\[54\]](#)

MICHAEL HAYS/ATTY. FOR DBT.  
ERIN MCCARTNEY/ATTY. FOR MV.  
J.P. MORGAN MORTGAGE ACQUISITION CORP. VS.

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 6216 Kilgord Court, Magalia, California

**Cause:** Delinquency; 6 monthly payments totaling \$11,231

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

J.P. Morgan Mortgage Acquisition Corp. seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

### **STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 11 payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

J.P. Morgan Mortgage Acquisition Corp.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 6216 Kilgord Court, Magalia, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

10. [22-21669](#)-A-7     **IN RE: LINDSAY/LISA BRAKEL**  
[MWB-5](#)

CONTINUED OBJECTION TO CLAIM OF NICOLAS LOPER, CLAIM NUMBER  
10  
1-4-2023     [[143](#)]

BYRON FARLEY/ATTY. FOR DBT.

**No Ruling**

11. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[CRG-2](#)

MOTION TO QUASH AND/OR MOTION FOR PROTECTIVE ORDER  
9-18-2024    [[58](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

12. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[CRG-3](#)

MOTION TO AVOID LIEN OF COLLECTRIX LLC, MOTION TO AVOID LIEN  
OF MICHAEL J. TURON AND/OR MOTION FOR SANCTIONS FOR  
VIOLATION OF THE AUTOMATIC STAY  
9-18-2024    [[62](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

13. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[MJT-3](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO  
DISCHARGE OF THE DEBTOR AND/OR MOTION TO EXTEND TIME  
9-3-2024    [[51](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

14. [24-23471](#)-A-7     **IN RE: NANCY BURNSIDE-WARD**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-6-2024    [\[26\]](#)

SHERYL ITH/ATTY. FOR MV.  
CREDIT ACCEPTANCE CORPORATION VS.

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2018 Nissan Rogue

**Cause:** delinquent installment payments \$31,835.03

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Credit Acceptance Corporation seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The movant contends that the debtor has failed to make contractual payments since February 10, 2023. Consequently, the default acceleration clause of the purchase contract was triggered and the entire balance of \$31,835.03 is now due. Motion, 2:6-11, ECF No. 26.

### **DEFAULT OF RESPONDENT**

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated* by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R.

476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Credit Acceptance Corporation's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2018 Nissan Rogue, as to all parties in interest. The 14-day stay of the order under Federal Rule of

Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

15. [24-22789](#)-A-7      **IN RE: YAXCHILAN BELL**

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.  
341(A) MEETING OF CREDITORS  
8-30-2024    [[18](#)]

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition filed by the debtor hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

**Continued Meeting of Creditors:** October 1, 2024, at 11:00 a.m., via Zoom

Irma Edmonds, Chapter 7 Trustee, seeks an order dismissing this case because the debtor failed to attend the meeting of creditors as required on July 31, 2024, or the continued meeting on August 27, 2024. The debtor filed opposition to the motion. The opposition fails to state the reason the debtor failed to attend the meeting. At the hearing on this motion, the debtor should be prepared to explain why he failed to attend the meeting.

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting may be cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); *In re Witkowski*, 523 B.R. 300, 307 n.8 (B.A.P. 1st Cir. 2014) ("Some courts have ruled that the failure to attend the § 341 meeting of creditors constitutes 'cause' for dismissal.").

In this case, the debtor has failed to appear at two scheduled meetings of creditors required by 11 U.S.C. § 341. The court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the next continued meeting of creditors on October 1, 2024, the case will be dismissed on trustee's declaration without further notice or hearing.

## **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it asks for an extension of deadlines. The court extends the following deadlines to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e). These deadlines are no longer set at 60 days after the first creditors' meeting.

## **CIVIL MINUTE ORDER**

The court will issue a minute order that conforms substantially to the following form:

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

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for October 1, 2024, at 11:00 a.m. via Zoom. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).



16. [24-20296](#)-A-7     **IN RE: DANIEL WEST**  
[KMT-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF KRONICK,  
MOSKOVITZ, TIEDEMANN & GIRARD FOR GABRIEL P HERRERA,  
TRUSTEES ATTORNEY(S)  
9-13-2024    [\[45\]](#)

GERALD WHITE/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 05/13/24

### **Tentative Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

**Compensation:**    \$10,255.00

**Reimbursement of expenses:**    \$145.44

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Kronick, Moskovitz, Tiedemann & Girard, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$10,255.00 and reimbursement of expenses in the amount of \$145.44.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Kronick, Moskovitz, Tiedemann & Girard's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$10,255.00 and reimbursement of expenses in the amount of \$145.44.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.