

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Sacramento, California

December 18, 2018 at 1:30 p.m.

1. [18-21367-E-13](#) **SUSAN SULTANA** **MOTION FOR RELIEF FROM**
[JHW-1](#) **Ashley Amerio** **AUTOMATIC STAY**
 11-16-18 [42]

SANTANDER CONSUMER USA, INC.
VS.

Final Ruling: No appearance at the December 18, 2018, 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 13 Trustee, and Office of the United States Trustee on November 16, 2018. By the court's calculation, 32 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.

<p>The Motion for Relief from the Automatic Stay is granted.</p>

Santander Consumer USA Inc., dba Chrysler Capital as servicer for CCAP Auto Lease LTD. ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2016 Jeep Cherokee, VIN ending in 6431 ("Vehicle"). The moving party has provided the Declaration of Ashley Young to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Susan Marie Sultana ("Debtor"). Dckt. 45.

December 18, 2018 at 1:30 p.m.

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The Young Declaration provides testimony that the Vehicle is being leased by Debtor. Debtor is in default \$520 for “wear and tear” fees, and the payoff remaining on the Vehicle would be \$14,092.68.

The Declaration explains the Confirmed Plan provides for the assumption of Movant’s lease, but states that on October 12, 2018, Debtor surrendered the Vehicle to Movant.

TRUSTEE’S RESPONSE

The Chapter 13 Trustee, David Cusick (“Trustee”), filed a Response to the Motion on November 28, 2018. Dckt. 50. Trustee notes for the court that Debtor is delinquent \$164 under the Confirmed Plan, having paid \$1,148.00 to date. Trustee also notes Movant is provided in section 4.02 of the Plan as an unexpired lease.

DISCUSSION

On May 1, 2018, the court issued an Order confirming Debtor’s Chapter 13 Plan. Dckt. 30. The Confirmed Plan provides for the assumption of Movant’s executory lease. Plan, Dckt. 5.

After the confirmation of the Plan, on October 12, 2018, Debtor surrendered the Vehicle to Movant. Dckt. 45. Debtor has not filed a response or opposition to this Motion.

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

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 because Debtor surrendered the Vehicle, which 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 Santander Consumer USA Inc., dba Chrysler Capital as servicer for CCAP Auto Lease LTD. (“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 2016 Jeep Cherokee, VIN ending in 6431 (“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.

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, and Office of the United States Trustee on October 24, 2018. By the court’s calculation, 21 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing -----.

<p>The Motion to Dismiss is denied without prejudice.</p>
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David Cusick (“the Chapter 13 Trustee”) seeks dismissal of the case because Michael Everett Scallin (“Debtor”) has not filed a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on August 28, 2018. Dckt. 78. To date, Debtor has proposed four plans, none having been confirmed. Trustee argues Debtor may not be capable of filing a confirmable plan in this case. A review of the docket shows that Debtor has not filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

NOVEMBER 14, 2018 HEARING

At the November 14, 2018, hearing, counsel for the Debtor explained he had been ill and out of town. The court continued the hearing on the Motion to December 18, 2018, at 1:30 p.m. Order, Dckt. 84.

REPLY

Debtor filed a Reply to the Motion on November 30, 2018. Dckt. 85. Debtor states he is filing a new plan which he believes addresses all of the court's prior concerns. Debtor states the new proposed plan provides for a payment of any income tax refunds greater than \$2,000.00 to be paid into the plan.

DISCUSSION

Debtor filed a Modified Plan and Motion to Confirm on November 30, 2018. Dckts. 89, 92. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckt. 91. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor's personal knowledge. FED. R. EVID. 601, 602.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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 Dismiss the Chapter 13 case filed by David Cusick ("the Chapter 13 Trustee") 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 to Dismiss is denied without prejudice.

3. [18-26681](#)-E-13 **SOPHIE MAYCHROWITZ**
[CJC-5](#) **Peter Macaluso**

**MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-3-18 [12]**

**FEDERAL HOME LOAN MORTGAGE
CORPORATION VS.**

Final Ruling: No appearance at the December 18, 2018, 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, Chapter 13 Trustee, and Office of the United States Trustee on December 4, 2018. By the court's calculation, 14 days' notice was provided. 14 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). The defaults of the non-responding parties and other parties in interest are entered.

<p>The hearing on the Motion for Relief from the Automatic Stay is continued to January 15, 2019 at 1:30p.m.</p>

Federal Home Loan Mortgage Corporation ("Movant") seeks relief from the automatic stay with respect to Sophie Ella Maychrowitz's ("Debtor") real property commonly known as 609 Lincoln Avenue, Williams, California ("Property"). Movant has provided the Declaration of Adrienne Morris to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

NOTICES OF MOTION

Movant in this case filed its initial Notice of Hearing on December 3, 2018. Dckt. 13. That Notice set the hearing on this Motion for December 17, 2018, at 1:30p.m., a time and day for which the presiding Judge did was not holding hearings.

Movant then filed an Amended Notice on December 4, 2018. Dckt. 24. The Amended Notice resets the hearing on the Motion to December 18, 2018, at 1:30p.m. *Id.*

Finally, Movant filed the Second Amended Notice on December 6, 2018. Dckt. 27. The Second Amended Notice purports to re-set the hearing on the Motion to January 15, 2019, at 1:30p.m. *Id.*

The court interprets the Second Amended Notice to be an *Ex Parte* request for continuance of the hearing. While no grounds are stated in support of the request (and no legal basis provided), no party in interest would be prejudiced by extending the time before hearing. Therefore, the court shall continue the Motion For Relief From Automatic Stay to January 15, 2019 at 1:30 p.m.

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 Federal Home Loan Mortgage Corporation (“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 Relief From Automatic Stay is continued to January 15, 2019 at 1:30 p.m.

4.

[18-26585](#)-E-13
[APN-1](#)

JULIAN PEREZ
Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-4-18 [\[34\]](#)

OCEAN POINT TOWNHOUSE
ASSOCIATION VS.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on December 4, 2018. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

The Motion for Relief from the Automatic Stay is granted.
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Ocean Point Townhouse Association ("Movant") seeks relief from the automatic stay with respect to Julian Perez's ("Debtor") real property commonly known as 270 Beachview Avenue, Apt. 14, Pacifica, California ("Property"). Movant seeks relief based on 11 U.S.C. §§ 362(d)(1), (d)(2), and (d)(4).

Movant has provided the Declaration of Teren Reeder to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Dckt. 36. The Reeder Declaration states that Ana Alvarez ("Alvarez") is the owner of the Property. Alvarez provided a notice to Movant stating:

"I have filed a Short Form Deed of Trust which the trust is in a Chapter 13 Bankruptcy filed in the Eastern District
The Trust Name is the TKC Trust. Case No: 18-26585

Assigned to Ronald Sargis. Please Cancel my Auction.”

Exhibit B, Dckt. 37.

This bankruptcy case is the third consecutive time a bankruptcy filing has been used to stop Movant’s efforts to foreclose. Declaration, Dckt. 36 at p. 3. Debtor previously used a case filed by Arif Pasha, Case No. 18-52019, on September 5, 2018. *Id.* On September 19, 2018, Alvarez faxed the following to Movant along with documents giving notice of the bankruptcy filing:

“I have filed a Short Form Deed of Trust which the trust is in a Chapter 13 Bankruptcy filed in the Northern District. The Trust Name is the RB43 Trust. Case No: 18-52019 assigned to Judge M. Elaine Hammond. Please Cancel my Auction.”

Exhibit C, Dckt. 37. The Pasha case has been dismissed. Dckt. 36 at p. 4.

The next most recent filing was by Maria Anunciacion Parker on June 20, 2018, Case No. 18-11553. On June 27, 2018, Alvarez faxed the following statement along with notice of the bankruptcy filing:

“I have filed a Short Form Deed of Trust which the trust is in a Chapter 13 Bankruptcy filed in the Eastern District. The Trust Name is the 814 Victory Trust. Case No: 18-11553 Assigned to Martin R. Barash. Please Cancel my Auction.”

Exhibit C, Dckt. 37. The Parker case has been dismissed. Dckt. 36 at p. 4.

Movant argues Alvarez recorded each of the referenced deeds of trust as part of her common plan and scheme to hinder, delay and defraud Movant from exercising its rights under the terms of the CC&Rs and to complete its foreclosure on the Property. The amount of outstanding dues against the Property totals \$59,855.14. Dckt. 36 at p. 4:20. The Property is subject to Movant’s lien in the amount of \$37,226.26. *Id.* at 4:22-24.

DISCUSSION

The present case is Debtor’s second attempt at causing delay. The prior case (18-24429) was filed July 16, 2018, and dismissed October 17, 2018 for failure to timely file documents. Case No. 18-24429, Dckt. 22. The case filed here is another based on a skeletal petition. Dckt. 1. While Debtor filed a Motion To Extend Time To File Case Opening Documents, nothing was filed by the extended due date of November 16, 2018. *See* Order On Extension, Dckt. 13. Debtor did not appear at the December 6, 2018, Meeting of Creditors. Trustee Report, December 7, 2018.

Movant here is also not the only creditor Debtor has tried to frustrate with this bankruptcy case. The court heard a Motion For Relief From Automatic Stay filed by creditors Mary Jenkins, Raymond Cordeiro, and Terese Cordiero on November 20, 2018. *See* Civil Minutes, Dckt. 33. At the hearing, the court noted Debtor was not the true owner of the property subject to that motion, and that this bankruptcy case was part scheme to delay, hinder, or defraud creditors. *Id.* The court issued an Order granting relief pursuant to 11 U.S.C. § 362 (d)(4). Order, Dckt. 30.

Relief From Stay For Cause & Lack of Equity

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 the case having been filed in bad faith as part of a scheme to delay, hinder, or defraud creditors. 11 U.S.C. § 362(d)(1).

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 rehabilitation. 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); 3 COLLIER ON BANKRUPTCY ¶ 362.07[4][b] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.) (stating that Chapter 13 debtors are rehabilitated, not reorganized). Based upon the evidence submitted to the court, and no opposition or showing having been made by Debtor or the Chapter 13 Trustee, the court determines that there is no equity in the Property for either Debtor or the Estate, and the property is not necessary for any effective rehabilitation in this Chapter 13 case.

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.

Prospective Relief from Future Stays

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (I) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

Certain patterns and conduct that have been characterized as bad faith include recent transfers of assets, a debtor’s inability to reorganize, and unnecessary delays by serial filings. *Id.*

Relief pursuant to 11 U.S.C. § 362(d)(4) may be granted if the court finds that two elements have been met. The filing of the present case must be part of a scheme, and it must contain improper transfers or multiple cases affecting the same property. With respect to the elements, the court concludes that the

filing of the current Chapter 13 case in the Eastern District of California was part of a scheme by Debtor to hinder and delay Movant from conducting a nonjudicial foreclosure sale by filing multiple bankruptcy cases.

The fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial crisis and allow all parties, debtor and creditors, to take stock of the situation. The filing of the current Chapter 13 case cannot have been for any bona fide, good faith reason. As stated, *supra*, this is Debtor's second bankruptcy filing based on a mere skeletal petition. In this case and the most recent prior case, Debtor sought extensions of the time for filing necessary documents, but never filed anything further. Debtor has used this bankruptcy case to stop foreclosure on property that he is not the true owner of.

The court finds that proper grounds exist for issuing an order pursuant to 11 U.S.C. § 362(d)(4). Movant has provided sufficient evidence concerning bankruptcy cases being filed to prevent actions against the Property. Movant has provided the court with evidence that Debtor has engaged in a scheme to hinder, defraud, and delay creditors through the multiple filing of bankruptcy cases.

In granting the 11 U.S.C. § 362(d)(4) relief, the court notes that such is not the end of the game for Debtor. While granting relief through this case, if Debtor has a good faith, bona fide reason to commence another case while that order is in effect for the Property, the judge in the subsequent case can impose the stay in that case. 11 U.S.C. § 362(c)(4). That would ensure that Debtor, to the extent that some bona fide reason existed, would effectively assert such rights rather than filing several bankruptcy cases that are then dismissed.

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 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 Ocean Point Townhouse Association ("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 Ocean Point Townhouse Association, 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 270 Beachview Avenue, Apt. 14, Pacifica, 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 above relief is also granted pursuant to 11 U.S.C. § 362(d)(4), which further provides:

“If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall 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 by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.”

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.

5. 18-21488-E-13 DANIEL/ALLISON BRENNAN MOTION FOR RELIEF FROM
AP2 Charles Hastings AUTOMATIC STAY
11-14-18 [99]
JPMORGAN CHASE BANK, N.A.
VS.

Debtors Daniel Lawrence Brennan and Allison Lyn Brennan; David Cusick, the Chapter 13 Trustee; and the Movant, JP Morgan Chase Bank (collectively the “Parties”) filed an *Ex Parte* Motion to Dismiss this Motion For Relief From The Automatic Stay without prejudice. Dckt. 117. This relief is requested pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. **The court has entered its order dismissing without prejudice the Motion, and the matter is removed from the calendar.**