

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9: -

Chapter 0

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Docket 0

Tentative Ruling:

7/4/2025 1:34:53 PM

Page 1 of 141

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Chapter 0

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10168 Ivan Lopez and Gladys Lopez

Chapter 7

#1.00 Hearing re: [18] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: CLASS AND PAGA CLAIMS.

Docket 18

Tentative Ruling:

July 8, 2025

Appearances waived. The Court will grant the Motion for "cause" under 11 U.S.C. § 362(d)(1) with waiver of the 14-day stay FRBP 4001(a)(3). Movants to lodge a conforming order within 7 days.

Gelacio Lopez and Patricia Lira ("Movants") seek a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) to proceed against the debtor Ivan Lopez (the "Debtor"), in the nonbankruptcy action *Lopez et. al. v. Gema Berry Farms, Inc., et. al.* (5:22-cv-02642-PCP) filed on April 29, 2022 (the "Nonbankruptcy Action"), pending before the United States District Court, Northern Division of California (the "District Court"). *See Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Non-Bankruptcy Forum)* (the "Motion") (Docket No. 18).

Movants seek relief from stay on the grounds that (1) the claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum, and (2) Movants' claims for relief brought pursuant to 11 U.S.C. § 523(a)(4), (a)(7), and (a)(6) allege elements of bad faith. *See id.*, pp. 2-3. Movants additionally seek relief to proceed under applicable nonbankruptcy law to enforce their remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or property of the Debtor's bankruptcy estate. *See id.*, p. 4.

Notice

The Motion and notice thereof were served upon the Debtor and Gladys Lopez (the "Debtor" with Gladys Lopez, the "Debtors") via U.S. Mail First class, postage prepaid on June 2, 2025, notifying the Debtors that pursuant to this Court's Local Rule

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtors, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtors.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). "Courts in the Ninth Circuit have granted stay relief to permit the conclusion of pending litigation in a nonbankruptcy forum when the litigation involves multiple parties or is ready for trial." *In re Wang*, 2010 WL 6259970 *5 (9th Cir. BAP 2010)(citing *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1169 (9th Cir. 1990). "Courts have also considered whether permitting the conclusion of pending litigation is in the interest of judicial economy or within the expertise of a state court." *Id.* (citing *In re MacDonald*, 755 F.2d 715 at 717).

"Courts evaluate several non-exclusive factors to determine if cause exists to permit pending litigation to continue in another forum [including:]

- (1) Whether the relief will result in a partial or complete resolution of the issues;
- (2) The lack of any connection with or interference with the bankruptcy case;
- (3) Whether the foreign proceeding involves the debtor as a fiduciary;
- (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Ivan Lopez and Gladys Lopez

Chapter 7

hear such cases;

(5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;

(6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;

(7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties;

(8) Whether the judgment claim arising from the foreign action is subject to equitable subordination;

(9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);

(10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;

(11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and

(12) The impact of the stay and the 'balance of the hurt.'"

Id. (citing *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Ut. 1984); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004); *In re Sonnox Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990); *In re Smith*, 389 B.R. 902, 918-919 (Bankr. D. Nev. 2008).

"A motion for stay relief is a summary proceeding." *In re Santa Clara County Fair Ass'n, Inc.*, 180 B.R. 564, 566 (9th Cir. BAP 1995)(citing *In re Computer Communications, Inc.*, 824 F.2d 725, 729 (9th Cir. 1987)). "In a summary proceeding, the court's discretion is broad." *Id.*

Curtis Factors

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

Whether the relief will result in a partial or complete resolution of the issues

Were the Court to grant the Motion, Movants would be allowed to proceed to trial against the Debtor in the effort to obtain a judgment against the Debtor. In the class action complaint, Movants, on behalf of class members formerly employed by the Debtor, allege claims for relief for (1) Migrant and Seasonal Agricultural Worker Protection Act (AWPA), (2) failure to provide rest and meal periods or pay additional wages in lieu thereof, (3) failure to pay minimum wages, (4) failure to pay rest & recovery and other nonproductive time separate from piece-rate compensation, (5) failure to pay overtime premium wages, (6) failure to indemnify employee for all necessary expenditures or losses incurred, (7) failure to give notice of sick leave and provide paid sick leave, (8) knowing and intentional failure to comply with itemized employee wage statement provisions, and (9) Violation of Unfair Competition Law, Cal. Bus. & Prof. Code §§17200 et seq. *See* Docket No. 18, at *Exhibit I*. On April 10, 2025, Movants filed an adversary case against the Debtors to determine nondischargeability of debt pursuant to 11 U.S.C. § 523(a)(4), (a)(6), and (a)(7) (the "Adversary"). *See* Docket No. 10.

Through the Motion, Movants seek relief to "proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or property of the Debtor's bankruptcy estate." *See id.*, p. 4. This means that the stay could be lifted, and a judgment may be obtained determining whether a debt exists in favor of Movants and against the Debtor.

A judgment in the Nonbankruptcy Action would resolve the existence of the underlying debt between the Debtor and Movants. Movants would then need to return to this Court for a determination of dischargeability of the underlying debt, if any. Granting of the Motion would partially resolve the issues between the Debtor and Movants.

The lack of any connection with or interference with the bankruptcy case

The Debtors filed a Chapter 7 bankruptcy case. *See* Docket No. 1. The 341(a) meeting was scheduled for March 13, 2025. *See* Docket No. 6. On March 13, 2025, the Chapter 7 trustee filed a Report of No Distribution. *See* Docket Entry dated March 13, 2025. That *Order of Discharge – Chapter 7* was entered on June 2, 2025.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

See Docket No. 17. The Debtors' case proceeded through the Chapter 7 process without interference by the Nonbankruptcy Action. The only matters that appear to remain in the bankruptcy case are resolution of the Motion and the Adversary. The Nonbankruptcy Action involves Movants, of behalf of class members formerly employed by the Debtor, and the Debtor, and federal and state law issues.

If the District Court were to render judgment in the Nonbankruptcy Action, there would be a determination if there is an underlying debt and the amount of such debt. Movant would then need to proceed before this Court to determine the dischargeability of any such debt. But for the determination of dischargeability of the debt, if any, the Debtors bankruptcy case has already proceeded through the Chapter 7 bankruptcy process.

Additionally, neither the Chapter 7 trustee nor the Debtors have not opposed the Motion.

Whether the foreign proceeding involves the debtor as a fiduciary

It does not appear that the Nonbankruptcy Action asserts the Debtor to have maintained a fiduciary capacity.

Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases

The Nonbankruptcy Action is a class action lawsuit that involves causes of action related to the violation of the Agricultural Workers Protects ("AWPA") and Private Attorneys General Act ("PAGA"). *See* Docket No. 18, at *Exhibit 1, Declaration of Stan Mallison*, p. 2. The District Court is not a specialized tribunal, and there is not a specialized expertise required of the District Court to hear the Nonbankruptcy Action. *See In re Curtis*, 40 B.R. 795 at 800 (specialized tribunals such as a board of contract appeals, state compensation panel, and state courts related to issues such as "unsettled questions of state property law...").

Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation

It does not appear that an insurance carrier has assumed financial responsibility for defending the litigation.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question

The Nonbankruptcy Action is between Movants and the Debtor and is not based on goods on which the Debtor functions as a bailee or conduit for.

Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties

There is no evidence that litigation in the Nonbankruptcy Action would prejudice other creditors or interested parties.

This factor weighs in favor of Movants.

Whether the judgment claim arising from the foreign action is subject to equitable subordination

This factor is not applicable to the Debtors.

Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f)

This factor is not applicable to the Debtors.

The interests of judicial economy and the expeditious and economical determination of litigation for the parties

The District Court has presided over the Nonbankruptcy Action since its filing on April 29, 2022. *See id.*, Declaration of Stan Mallion, ¶ 2. Litigation in the Nonbankruptcy Action was set to proceed to trial on April 7, 2025, and was only vacated when the Debtors filed bankruptcy. *See id.*, ¶ 3. Significant litigation has already occurred in the District Court. Therefore, the Nonbankruptcy Action would be most expeditiously resolved in District Court.

This factor weighs in favor of Movants.

Whether the foreign proceedings have progressed to the point where the parties are prepared for trial

Trial in the Nonbankruptcy Action was set for trial on April 7, 2025. *See id.* Trial

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

would have gone forward but for the Debtors filing bankruptcy.

This factor weighs in favor of Movants.

The impact of the stay and the 'balance of the hurt'

The Nonbankruptcy Action has been pending in State Court for over three (3) years. The Nonbankruptcy Action was ready to proceed to trial. Movants would be significantly hurt if the stay relief was not granted. What is more, as to the Debtors, denying the Motion would result in the underlying litigation starting from the beginning in this Court, which hurts the Debtors and the Movants. Further, the Debtors have not opposed the Motion.

This factor weighs in favor of Movants.

Conclusion

In analyzing the *Curtis* factors this Court finds cause to lift the stay as set forth in 11 U.S.C. § 362(d)(1) with waiver of the 14-day stay FRBP 4001(a)(3).

Party Information

Debtor(s):

Ivan Lopez

Represented By
Frank X Ruggier

Joint Debtor(s):

Gladys Lopez

Represented By
Frank X Ruggier

Movant(s):

Mallison and Martinez

Represented By
Gonzalo Quezada Jr

Patricia Lira

Represented By
Gonzalo Quezada Jr

Gelacio Lopez

Represented By
Gonzalo Quezada Jr

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Ivan Lopez and Gladys Lopez

Chapter 7

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10426 Bryan Joseph Raber and Jordan Dale Katnik

Chapter 7

#2.00 Hearing re: [13] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Tesla Model 3

Docket 13

Tentative Ruling:

July 8, 2025

**Appearances waived. The Motion is denied as moot for the reasons stated *infra*.
Movant to lodge a conforming order within 7 days.**

On June 11, 2025, U.S. Bank National Association ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to a 2022 Tesla Model 3 (the "Vehicle") of Bryan Joesph Raber and Jordan Dale Katnik (the "Debtors") on the grounds that the Debtors filed a statement of intention that indicates the Debtors intend to surrender the Vehicle. *See* Docket No. 13, p. 4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, and (2) waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtors via U.S. Mail First class, postage prepaid on June 11, 2025, notifying the Debtors that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. On June 13, 2025, the Debtors filed that *Notice of Non-Opposition*. *See* Docket No. 17.

Analysis

Pursuant to 11 U.S.C. § 362(h)(1), "[i]n a case in which the debtor is an individual, the stay provided in subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim [] and such personal

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Bryan Joseph Raber and Jordan Dale Katnik

Chapter 7

property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) -- (A) to file timely any statement of intention [] with respect to such personal property [] to retain it, and if retaining such personal property [] enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property []; and (B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking such action []."

Pursuant to 11 U.S.C. § 521(2)(A), "if an individual debtor's schedule of assets and liabilities includes debts which are secured by property of the estate (A) within thirty day after the date of the filing of a petition under chapter 7 of this title [] file with the clerk a statement of his intention with respect to the retention or surrender of such property []; and (B) within 30 days after the first date set for the meeting of creditors under section 341(a) [] perform his intention with respect to such property, as specified by subparagraph (A) of this paragraph."

Here, on March 31, 2025, the Debtors filed that *Statement of Intention for Individuals Filing Under Chapter 7*, which provided that as to the Vehicle, the Debtors intended to "[s]urrender the property." See Docket No. 1. The first date set for the Meeting of Creditors under 11 U.S.C. § 341(a) was May 8, 2025. See Docket No. 6; see also *In re Gordon*, 988 F.2d 1000, 1001 (9th Circ. 1993) (holding that the "first date set" deadline for the Meeting of Creditors means the first date set for the meeting rather than the date the hearing is actually held). The Debtors failed to surrender the Vehicle within 30 days of the first date set for the Meeting of Creditors. Therefore, the stay terminated as of June 7, 2025, regarding the Vehicle, and the Vehicle is no longer property of the estate. See *In re Baine*, 393 B.R. 561, 565 (Bankr. S.D. Oh. 2008).

The Motion, therefore, is moot. There is no stay to lift.

Party Information

Debtor(s):

Bryan Joseph Raber

Represented By
Eric Ridley

Joint Debtor(s):

Jordan Dale Katnik

Represented By

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Bryan Joseph Raber and Jordan Dale Katnik

Eric Ridley

Chapter 7

Movant(s):

U.S. BANK NATIONAL

Represented By
David Coats

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10587 Kyle Dill

Chapter 7

#3.00 Hearing re: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2021 Toyota Highlander

Docket 14

***** VACATED *** REASON: Hearing continued to 8/19/25 at 9:00 a.m.
per order entered 7/3/25.**

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. § 362(d)(1). The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On June 6, 2025, Toyota Motor Credit Corporation ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2021 Toyota Highlander (the "Vehicle") of Kyle Dill (the "Debtor") on the grounds that (1) Movant's interest in the Vehicle is not protected by an adequate equity cushion and the fair market value of the Vehicle is declining, (2) proof of insurance regarding the Vehicle has not been provided to Movant, despite the Debtor's obligation to insure the collateral under the terms of Movant's contract with the Debtor, and (3) Movant regained possession of the Vehicle prepetition on December 30, 2024. *See* Docket No. 14, pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, and (2) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on June 6, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(f)(1), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Kyle Dill

Chapter 7

On June 24, 2025, the Debtor filed *Debtor's Limited Opposition to Motion for Relief from Stay and Request to Continue Hearing* (the "Opposition"). See Docket No. 20. There is no proof of service attached to the Opposition as required by LBR 9013-1(e). [FN 1] Therefore, notice of the Opposition is improper.

In the Opposition, the Debtor asserts that (1) he underwent a medical procedure that has limited his ability to participate in legal proceedings, (2) the Vehicle was already repossessed, and the Debtor is working on funds to pay the outstanding balance, (3) there is more than \$14,000 in equity in the Vehicle, and (4) the Debtor requests a continuance of the hearing for "additional time for recovery and to resolve the matter without further burdening the Court." See *id.*

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. See *In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. See *In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002). Courts have held that the failure of a debtor to maintain insurance over a secured creditor's collateral works as a failure to adequately protect the secured creditor in said collateral, and such lack of adequate protection constitutes cause to lift the stay. See *In re El Patio, Ltd.*, 6 BR 518, 522 (Bankr. C.D. Cal. 1980); see also *In re DB Capital Holdings, LLC*, 454 B.R. 804, 817 (Bankr. Colo. 2011); *In re Olayer*, 577 B.R. 464, 472 (Bankr. W.D. Pa. 2017) ("The failure to maintain adequate insurance to protect the value of estate assets is a breach of the debtor's fundamental obligations, needlessly expenses the estate to the risk of a catastrophic loss, and may constitute sufficient cause for stay relief.").

Here, Movant asserts a secured claim against the Vehicle in the amount of \$22,710.28. See Docket No. 14, p. 8. Movant asserts the fair market value of the Vehicle is \$36,850.00 according to a J.D. Power Used Cars/Trucks report. See *id.*, at *Exhibit 4*. Movant asserts that the Debtor is in arrears in the amount of \$9,505.96.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Kyle Dill

Chapter 7

See id. It appears that the Debtor's last monthly payment of \$752.13 was received by Movant on December 13, 2023. *See id.* Additionally, Movant regained possession of the Vehicle pre-petition on December 30, 2024, and there is no evidence that the Debtor has insurance on the Vehicle. *See id.*, pp. 9-10.

Despite the equity in the Vehicle, the Debtor's delinquency, coupled with the prepetition repossession of the Vehicle and the Debtor's failure to maintain insurance on the Vehicle, all constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

What is more, the Debtor noted that they intended to retain the Vehicle and enter into a reaffirmation agreement. *See* Docket No. 1, *Statement of Intention for Individuals Filing Under Chapter 7*, p. 61. The first meeting of creditors was held on May 29, 2025. *See* Docket No. 2. The Debtor has not redeemed the Vehicle, now, more than 30 days since the first meeting of creditors. So, the automatic stay terminated, and the Vehicle ceased to be property of the Debtor's estate as of June 18, 2025. *See* 11 U.S.C. §§ 362(h)(1).

The Debtor's request for a continuance is denied. The Debtor is able to attend the hearing remotely either via zoom audio or video.

Fed. R. Bankr. P. 4001(a)

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

FN 1 This Court's Local Bankruptcy Rule 9013-1(f)(1) provides that "[e]xcept as set forth in LBR 7056-1 (with regard to motions for summary judgment or partial summary adjudication), LBRs 2014-1(b), 2016- 1(a)(2), 3015-1(w) and (x), and 9013-1(o) (with regard to motions and matters that may not require a hearing), and LBR 9075-1 (with regard to motions to be heard on an emergency or shortened notice basis or unless otherwise ordered by the court), each interested party opposing or responding to the motion must file and serve the response (Response) on the moving party and the United States trustee not later than 14 days before the date designated for hearing.

The Court's Local Bankruptcy Rule 9013-1(e) provides that "[e]very document filed

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Kyle Dill

Chapter 7

pursuant to this rule must be accompanied by a proof of service, completed in compliance with LBR 9013-3, that indicates the filed document was (1) served by the party filing the document, and/or (2) will be served via NEF on parties registered to receive service via NEF pursuant to LBR 9036-1.

Party Information

Debtor(s):

Kyle Dill

Pro Se

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10646 Amy Arlene Hayes

Chapter 7

#4.00 Hearing re: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 AUDI Q5

Docket 11

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (2) for the reasons stated *infra*. The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On June 13, 2025, VW Credit, Inc. ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to a 2022 Audi Q5 (the "Vehicle") of Amy Arlene Hayes (the "Debtor") on the grounds that (1) Movant's interest in the Vehicle is not adequately protected by an adequate equity cushion, (2) proof of insurance regarding the Vehicle has not been provided to Movant, despite the Debtor's obligation to insure the collateral under the terms of Movant's contract with the Debtor, and (3) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Vehicle; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Vehicle is not necessary for an effective reorganization. *See* Docket No. 11, pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, and (2) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on June 13, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Amy Arlene Hayes

Chapter 7

served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(2)

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property." *In re Preuss*, 15 B.R. 896, 897 (9th Cir. BAP 1981).

Here, Movant first contends that its interest in the Vehicle is not adequately protected. Movant asserts a secured claim against the Vehicle in the amount of \$46,526.25. *See* Docket No. 11, p. 8. According to J.D. POWER Used Cars/Trucks report, the Vehicle has a fair market value of \$30,250.00. *See id.*, at *Exhibit 4*. As there exists no equity in the Vehicle, and because the instant case is one under Chapter 7, the Motion is granted pursuant to 11 U.S.C. § 362(d)(2).

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002). Courts have held that the failure of a debtor to maintain insurance over a secured creditor's collateral works as a failure to adequately protect the secured creditor in said collateral, and such lack of adequate protection constitutes cause to lift the stay. *See In re El Patio, Ltd.*, 6 BR 518, 522 (Bankr. C.D. Cal. 1980); *see also In re DB Capital*

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Amy Arlene Hayes

Chapter 7

Holdings, LLC, 454 B.R. 804, 817 (Bankr. Colo. 2011); *In re Olayer*, 577 B.R. 464, 472 (Bankr. W.D. Pa. 2017) ("The failure to maintain adequate insurance to protect the value of estate assets is a breach of the debtor's fundamental obligations, needlessly expenses the estate to the risk of a catastrophic loss, and may constitute sufficient cause for stay relief.").

Here, Movant asserts a secured claim against the Property in the amount of \$46,526.25. *See* Docket No. 11, p. 8. Movant asserts that the Debtor is in arrears in the amount of \$6,062.21. *See id.* It appears that the Debtor's last monthly payment of \$1,035.47 was received by Movant on March 7, 2025. *See id.* Additionally, proof of insurance regarding the Vehicle has not been provided to Movant. *See id.*, p. 10.

The Debtor's delinquency, coupled with the Debtor's failure to maintain insurance on the Property, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d) (1).

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

Party Information

Debtor(s):

Amy Arlene Hayes

Pro Se

Movant(s):

VW Credit, Inc.

Represented By
Kirsten Martinez

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10691 Kristie Mesirow

Chapter 7

#5.00 Hearing re: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2021 Mercedes-Benz GLC300W, VIN: W1N0G8DBXMF894560

Docket 12

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. § 362(d)(1), including the request to waive Fed. R. Bankr. P. 4001(a), for the reasons stated *infra*. Movant to lodge a conforming order within 7 days.

On June 10, 2025, Mercedes-Benz Financial Services USA LLC ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2021 Mercedes-Benz GLC300W (the "Vehicle") of Kristie Mesirow (the "Debtor") on the grounds that (1) Movant's interest in the Vehicle is not adequately due to the Debtor's failure to provide proof of insurance as required by the contract with Movant, (2) the Debtor filed a statement of intention that indicates the Debtor intends to surrender the Vehicle, and (3) monthly payments per the contract are not being made to Movant. *See* Docket No. 12, pp. 3-4.

In addition to lifting the stay, Movant requests relief to: (1) proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, (2) waiver of the 14-day stay prescribed by FRBP 4001(a)(3), and (3) if relief from stay is not granted, an order for adequate protection. *See id.*, p. 5.

Notice

On June 10, 2025, the Motion was filed and served upon the Debtor via U.S. Mail, first class, postage prepaid, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing of the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Kristie Mesirow

Chapter 7

timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." The Ninth Circuit has held that a 20% equity cushion adequately protected a secured creditor. *See In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984). "Case law has almost [] uniformly held that an equity cushion under 11% is insufficient to constitute adequate protection." *See In re Kost*, 102 B.R. 829, 832 (D. Wyo. 1989). *See also In re Castle Ranch of Ramona, Inc.*, 3 B.R. 45, 48 (Bankr. S.D. Cal. 1980) (holding that 8.6% equity cushion is insufficient).

Lack of adequate protection is not the exclusive ground for finding "cause." *See In re Elmore*, 94 B.R. 670, 678 (Bankr. C.D. Cal. 1988). Courts find "cause" on other grounds on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). Courts have held that failure to maintain insurance on a secured creditor's collateral leaves creditor without adequate protection and will thus be cause for lifting the stay. *See In re El Patio, Ltd.*, 6 B.R. 518, 522, (Bankr. C.D. Cal. 1980). *See also In re DB Capital Holdings, LLC*, 454 B.R. 804, 817 (Bankr. Colo. 2011); *In re Olayer*, 577 B.R. 464, 472 (Bankr. W.D. Pa. 2017) ("The failure to maintain adequate insurance to protect the value of estate assets is a breach of the debtor's fundamental obligations, needlessly expenses the estate to the risk of a catastrophic loss, and may constitute sufficient cause for stay relief."). Courts have also held that "[t]he debtor's failure to make post-petition payments is sufficient cause to justify granting relief from the automatic stay." *See In re Watson*, 286 B.R. 594, 604 (Bankr. N.J. 2002).

Movant asserts a secured claim against the Vehicle in the amount of \$26,150.51. *See* Docket No. 12, p. 8. Movant asserts that the Debtor is in arrears in the amount of \$2,317.04. *See id.* It appears that the Debtor's last monthly payment of \$791.92 was received by Movant on April 2, 2025. *See id.* Additionally, the Debtor filed that

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Kristie Mesirow Chapter 7

Statement of Intention for Individuals Filing Under Chapter 7 that indicates that the Debtor intends to surrender the Vehicle. *See id.*, at *Exhibit D*, p. 1.

The Debtor's delinquency, coupled with the Debtor's failure to maintain insurance on the Vehicle and the Debtor's intention to surrender the Vehicle, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Kristie Mesirow

Represented By
Shawn S White

Movant(s):

Mercedes-Benz Financial Services

Represented By
Sheryl K Ith

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10286 Joseph Tergalstanian

Chapter 7

#6.00 Hearing re: [53] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Jeep Wrangler, VIN: 1C4JJXR6XNW249380

Docket 53

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2), including the request to waive Fed. R. Bankr. P. 4001(a), for the reasons stated *infra*. Movant to lodge a conforming order within 7 days.

On May 27, 2025, Santander Consumer USA Inc. dba Chrysler Capital as servicer for CCAP Auto Lease Ltd. ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to a 2022 Jeep Wrangler (the "Vehicle") of Joseph Tergalstanian (the "Debtor") on the grounds that (1) the Vehicle is not adequately protected because proof of insurance regarding the Vehicle has not been provided to Movant, (2) monthly lease payments per the contract are not being made to Movant, (3) the Debtor filed a statement of intention that indicates the Debtor intends to surrender the Vehicle, and (4) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Vehicle; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Vehicle is not necessary for an effective reorganization. *See* Docket No. 53, pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, (2) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3), and (3) if relief from stay is not granted, the court orders adequate protection. *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on May 27, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(f), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Joseph Tergalstanian

Chapter 7

timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

11 U.S.C. § 362(d)(2)

Pursuant to 11 U.S.C. § 362(d)(2), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does not have an equity in such property and (B) such property is not necessary to an effective reorganization." "Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property." *In re Preuss*, 15 B.R. 896, 897 (9th Cir. BAP 1981).

Movant first contends that its interest in the Vehicle is not adequately protected. Movant asserts a secured claim against the Vehicle in the amount of \$28,003.60 as of May 12, 2025. *See* Docket No. 53, p. 8. Movant further asserts that the Vehicle is leased, therefore, there is no equity in the Vehicle. *See id.*, p. 9. As there exists no equity in the Vehicle, and because the instant case is one under Chapter 7, the Motion is granted pursuant to 11 U.S.C. § 362(d)(2).

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002). Courts have held that the failure of a debtor to maintain insurance over a secured creditor's collateral works as a failure to adequately protect the secured creditor in said

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Joseph Tergalstanian

Chapter 7

collateral, and such lack of adequate protection constitutes cause to lift the stay. *See In re El Patio, Ltd.*, 6 BR 518, 522 (Bankr. C.D. Cal. 1980); *see also In re DB Capital Holdings, LLC*, 454 B.R. 804, 817 (Bankr. Colo. 2011); *In re Olayer*, 577 B.R. 464, 472 (Bankr. W.D. Pa. 2017) ("The failure to maintain adequate insurance to protect the value of estate assets is a breach of the debtor's fundamental obligations, needlessly expenses the estate to the risk of a catastrophic loss and may constitute sufficient cause for stay relief.").

Here, Movant asserts a secured claim against the Vehicle in the amount of \$28,003.60. *See* Docket No. 53, p. 8. Movant asserts that the Debtor is in arrears in the amount of \$4,423.32. *See id.* It appears that the Debtor's last monthly payment of \$1,088.33 was received by Movant on January 7, 2025. *See id.* Additionally, the Debtor filed that *Statement of Intention for Individuals Filing Under Chapter 7* that indicates that the Debtor intends to surrender the Vehicle, and there is no evidence of insurance on the Vehicle. *See id.*, p. 10; *Exhibit D*, p. 2.

The Debtor's delinquency, coupled with the Debtor's failure to maintain insurance on the Vehicle and the Debtor's intention to surrender the Vehicle, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Joseph Tergalstanian

Represented By
Kevin T Simon

Movant(s):

Santander Consumer USA Inc. dba

Represented By
Sheryl K Ith

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10563 Hailey Nicole Cohen and Cody Dee Cohen

Chapter 7

#7.00 Hearing re: [15] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Tesla Model 3

Docket 15

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. § 362(d)(1). The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On May 30, 2025, Fifth Third Bank ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2019 Tesla Model 3 (the "Vehicle") of Hailey Nicole Cohen and Cody Dee Cohen (the "Debtors") on the grounds that (1) Movant's interest in the Vehicle is not protected by an adequate equity cushion and the fair market value of the Vehicle is declining, (2) proof of insurance regarding the Vehicle has not been provided to Movant, despite the Debtors' obligation to insure the collateral under the terms of Movant's contract with the Debtors, and (3) Movant regained possession of the Vehicle prepetition on April 25, 2025. *See* Docket No. 15, pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, and (2) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3). *See id.*, p. 5.

The Motion and notice thereof were served upon the Debtors via U.S. Mail First class, postage prepaid on May 30, 2025, notifying the Debtors that pursuant to this Court's Local Rule 9013-1(f)(1), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtors, nor any

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Hailey Nicole Cohen and Cody Dee Cohen

Chapter 7

other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtors.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002).

Here, Movant asserts a secured claim against the Vehicle in the amount of \$24,132.74. *See* Docket No. 15, p. 8. Movant asserts that the Debtors are in arrears in the amount of \$2,626.89. *See id.* It appears that the Debtors' last monthly payment of \$692.72 was received by Movant on January 22, 2025. *See id.* Additionally, Movant regained possession of the Vehicle pre-petition on April 25, 2025. *See id.*, p. 9. **[FN1]**

The Debtors' delinquency, coupled with the Debtors' voluntary surrender of the Vehicle and the Debtors' failure to maintain insurance on the Vehicle, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Fed. R. Bankr. P. 4001(a)

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

[FN1] The Court notes that the Debtors filed a petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code on April 25, 2025. *See* Docket No. 1.

Party Information

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Hailey Nicole Cohen and Cody Dee Cohen

Chapter 7

Debtor(s):

Hailey Nicole Cohen

Represented By
Reed H Olmstead

Joint Debtor(s):

Cody Dee Cohen

Represented By
Reed H Olmstead

Movant(s):

Fifth Third Bank

Represented By
Kirsten Martinez

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10682 Kathleen J. Gresham

Chapter 7

#8.00 Hearing re: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1391 E. Hillcrest Drive, Thousand Oaks, CA 91362

Docket 11

Tentative Ruling:

July 8, 2025

**Appearances waived. The Motion is denied for the reasons stated *infra*.
Movant is to lodge a conforming order within 7 days.**

Anneace Weiss ("Movant") seeks relief as to the residential property located at 1391 E. Hillcrest Drive, Thousand Oaks, CA 91362 (the "Premises") through an order pursuant to 11 U.S.C. § 362(d)(1) on the grounds that 'cause' exists as to the debtor Kathleen J. Gresham (the "Debtor") because the Debtor has no right to continued occupancy of the Premises. *See Motion for Relief from the Automatic Stay or for An Order Confirming That Automatic Stay Does Not Apply Under 11 U.S.C. § 362(l)* (the "Motion") (Docket No. 11).

An unlawful detainer proceeding was commenced on March 27, 2025. *See id.*, p. 3. Under 11 U.S.C. § 362(d)(1), Movant contends that (1) the Debtor's right to possession of the Premises terminated because (1) the lease or other right of occupancy expired by its terms on March 23, 2025, and (2) the bankruptcy case was filed in bad faith. *See id.*, p. 4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Premises, (2) confirmation that there is no stay in effect, (3) the stay be annulled retroactive to the petition date, (4) the 14-day stay prescribed by FRBP 4001(a)(3) be waived, (5) a designated law enforcement officer may evict the Debtor and any other occupant from the Premises regardless of any future bankruptcy filing concerning the Premises for a period of 180 days from the hearing of this motion without further notice, (6) the order be binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the Property for a period of 180 days

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Kathleen J. Gresham

Chapter 7

from the hearing on the Motion without further notice, (7) the order be binding in any other bankruptcy case purporting to affect the Property not later than 2 years after the date of entry of such order, except that a debtor in a subsequent case may move for relief from the order based on changed circumstances or for good cause shown, after notice and hearing, (8) the order be binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Property. *See id.*, p. 5.

Notice

Pursuant to this Court's Local Rule 4001-1(c)(1)(C)(i), a lift stay motion must be served by the moving party upon "[t]he debtor *and* debtor's attorney (if any)." (emphasis added).

The Motion was filed and served on June 2, 2025, and served upon the Debtor's Counsel, and the Chapter 7 trustee. *See* Docket No. 11, *Proof of Service of Document*, p. 11. The Debtor is not listed as a recipient via NEF, nor does the Motion list their real property address on the *Proof of Service of Document* as having been served via U.S. Mail first class, postage prepaid. Therefore, notice of the Motion was improper.

Analysis

11 U.S.C. § 362(b)(22)

Pursuant to 11 U.S.C. § 362(b), the filing of a bankruptcy petition does not operate as a stay in certain enumerated exceptions, including— "(22) subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;. . ." 11 U.S.C. § 362(l)(1) provides "[e]xcept as otherwise provided in this subsection, subsection (b) (22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that-- (A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Kathleen J. Gresham

Chapter 7

cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and (B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition."

"If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3)." 11 U.S.C. § 362(l)(2).

There is no evidence that Movant obtained a judgment for possession prior to the May 22, 2025, petition date. Therefore, 11 U.S.C. § 362(b)(22) does not apply and the Court denies the request for confirmation that there is no stay in effect.

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure to pay post-petition lease payments on real property lease may constitute cause to lift the stay under 11 U.S.C. § 362(d)(1). *See In re Rocchio*, 125 B.R. 345, 347 (Bankr. D. RI 1991); *see also In re Touloumis*, 170 B.R. 825 (Bankr. S.D.N.Y. 1994); 11 U.S.C. § 365(d)(3)(A).

As to "cause" under 11 U.S.C. § 362, Movant asserts that (1) Movant caused a notice to quit to be served on the Debtor, (2) an unlawful detainer proceeding was commenced on March 27, 2025, (3) the lease or other right to occupancy expired by its terms on March 23, 2025, (4) and the case was filed in bad faith. *See* Docket No. 11, pp. 3-4. Movant does not provide a copy of the underlying lease or any information about delinquent rental payments. In fact, this portion of the Motion is

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Kathleen J. Gresham

Chapter 7

largely blank. *See id.*, p. 7. According to the Complaint – Unlawful Detainer attached to the Motion, the Debtor orally agreed to pay monthly rental payments of \$750.00, which was later increased to \$1,674.00. *See id.*, at *Exhibit 2*. Schedule G does not identify the lease agreement with Movant, therefore, it appears that the Debtor does not intend to assume the lease associated with the Premises. *See* Docket No. 1, *Schedule G: Executory Contracts and Unexpired Leases*, p. 1. However, the Court does not have a declaration attesting to the details in the unlawful detainer complaint, including a calculation of the total delinquent rent or confirming that the Debtor has failed to make post-petition lease payments.

Therefore, Movant has not established cause pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Kathleen J. Gresham

Represented By
Brian Nomi

Movant(s):

Anneace Weiss

Represented By
Bret G Anderson

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:21-11070 Todd A. Binder and Dawn R. Binder

Chapter 13

#9.00 CONT'D Hearing re: [72] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3620 Flood St., Simi Valley, CA 93063

fr. 6-3-25,

Docket 72

Tentative Ruling:

July 8, 2025

Appearances are waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1) for the reasons set forth *infra*, but will deny the Motion as to its request that the Court waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

Selene Finance LP, as servicer for U.S. Bank Trust National Association not in its individual capacity but solely as owner trustee for RCAF Acquisition Trust ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 3620 Flood Street, Simi Valley, CA 93063 (the "Property") of Todd A. Binder and Dawn R. Binder (the "Debtors") on the grounds that the Debtors have failed to make postpetition mortgage payments as they became due under the *1st Amended Chapter 13 Plan* (the "Plan"). *See* Docket No. 72, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtors, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) if relief from stay is not granted, adequate protection be entered. *See id.*, p. 5.

Notice

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT... Todd A. Binder and Dawn R. Binder

Chapter 13

The Motion and notice thereof were served upon the Debtors via U.S. Mail First class, postage prepaid on April 29, 2025, notifying the Debtors that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 12. [FN 1] Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtors, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtors.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985).

Under the terms of the Plan, the Debtors are required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 23, p. 6, Class 2. Movant asserts that the Debtors defaulted on Plan payments consisting of four (4) unpaid postconfirmation payments of \$2,414.67. *See* Docket No. 72, p. 9. Including attorneys' fees of \$1,549.00 and less a suspense account of \$173.71, Movant asserts that there is a total postconfirmation delinquency of \$11,033.97 (as of the date of the Motion) with a payment of \$2,414.67 becoming due May 1, 2025. *See id.* According to the Motion, the last monthly payment of \$2,418.00 was received by Movant on April 2, 2025. *See id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtors' failure to make no less than four (4) postpetition/postconfirmation mortgage payments pursuant to the terms of the Plan.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Todd A. Binder and Dawn R. Binder

Chapter 13

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order.'" *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

FN 1 The Motion was initially set for June 3, 2025, but was continued to July 8, 2025, pursuant to the terms of that *Order on Stipulation to Continue Hearing on Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362*.

Party Information

Debtor(s):

Todd A. Binder

Represented By
Todd J Mannis

Joint Debtor(s):

Dawn R. Binder

Represented By
Todd J Mannis

Movant(s):

U.S. BANK TRUST NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:24-10516 Christopher Anthony Dellorco

Chapter 13

#10.00 CONT'D Hearing re: [31] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1218 S. Westlake Blvd., Unit A, Westlake Village, CA 91361-1937

fr. 5-20-25,

Docket 31

***** VACATED *** REASON: Hearing continued to 8/5/25 at 9:00 a.m. per order entered 7/2/25.**

Tentative Ruling:

July 8, 2025

Appearances waived.

Counsel for Movant appeared at the May 20, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No such adequate protection agreement has been filed to date. The Court adopts its May 20, 2025, tentative ruling as its final ruling, and the Motion is granted in part, and denied in part for the reasons provided therein. Movant is to upload a conforming order within 7 days.

May 20, 2025

Appearances are waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1) for the reasons set forth *infra*, but will deny the Motion as to its request that the Court waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

NewRez LLC d/b/a/ Shellpoint Mortgage Servicing as servicer for U.S. Bank Trust Company, National Association, not in its individual capacity, but solely as trustee of GCAT 2023-NQM4 Trust ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 1218 South Westlake Boulevard, Unit A, Westlake Village, CA 91361 (the "Property") of Christopher Anthony Dellorco (the "Debtor") on the grounds that the Debtor has failed to make

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Christopher Anthony Dellorco

Chapter 13

postpetition mortgage payments as they became due under the *Original Chapter 13 Plan* (the "Plan"). See Docket No. 31, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (4) if relief from stay is not granted, adequate protection be ordered. See *id.*, p. 5.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on April 25, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. See *id.*, *Proof of Service of Document*, p. 12.

On May 6, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). See Docket No. 34. In the Response, the Debtor asserts that he made catch up payments, all postpetition arrearages will be cured by the time of the hearing, and the Debtor will enter into an adequate protection agreement to the extent the arrearages have not been fully cured by the time of the hearing. See *id.*, p. 3.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). See *In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985).

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Christopher Anthony Dellorco

Chapter 13

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 11, p. 6, Class 2. Movant asserts that the Debtor defaulted on Plan payments consisting of three (3) unpaid postconfirmation payments of \$4,501.23. *See* Docket No. 31, p. 9. Less a suspense account of \$4,435.69, Movant asserts that there is a total postconfirmation delinquency of \$9,068.00 (as of the date of the Motion) with a payment of \$4,501.23 becoming due May 1, 2025. *See id.* According to the Motion, the last monthly payment of \$4,501.23 was received by Movant on March 24, 2025. *See id.*

Unless the Debtor is current by the time of the hearing, cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make no less than three (3) postpetition/postconfirmation mortgage payments pursuant to the terms of the Plan.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Christopher Anthony Dellorco

Represented By
David S Hagen

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Jacqueline D Serrao

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:24-10016 Chad Aaron Wright

Chapter 13

#11.00 Hearing re: [53] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 828 Quail Court, Arroyo Grande, CA 93420

Docket 53

Tentative Ruling:

July 8, 2025

Appearances waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1), including the request to waive the co-debtor stay, for the reasons set forth *infra*. The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

MSR Asset Vehicle LLC ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 828 Quail Court, Arroyo Grande, CA 93420 (the "Property") of Chad Aaron Wright (the "Debtor") on the grounds that the Debtor has failed to make post-petition mortgage payments as they became due under the *Original Chapter 13 Plan* (the "Plan"). *See* Docket No. 53, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief to (1) proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement or other loan workout/loss mitigation agreement by contacting the Debtor, (3) termination of the co-debtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3), and (5) if relief from stay is not granted, adequate protection be ordered. *See id.*, p. 5.

Notice

The Motion was filed on June 6, 2025, and served upon the Debtor and the non-filing co-debtor via U.S. Mail first class, postage prepaid on the same date. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Chad Aaron Wright

Chapter 13

does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, non-filing co-debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor and non-filing co-debtor.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." Failure to make post-petition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 25, p. 5, Class 2. Movant asserts that the Debtor defaulted on plan payments consisting of three (3) unpaid post-confirmation payments of \$4,114.37. *See* Docket No. 53, p. 9. Including post-petition advances of \$950.00. and less a suspense account of \$4,113.41, Movant asserts that there is a total post-petition delinquency of \$9,179.70 (as of the date of the Motion) with a payment of \$4,114.37 becoming due June 1, 2025. *See id.*, p. 9. According to the Motion, the last monthly payment of \$4,114.37 was received by Movant on May 13, 2025. *See id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make no less than three (3) post-petition/post-confirmation mortgage payments pursuant to the terms of the Plan.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Chad Aaron Wright Chapter 13

grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.*

No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Chad Aaron Wright

Represented By
Adele M Schneidereit

Movant(s):

MSR Asset Vehicle LLC

Represented By
Sean C Ferry
Dane W Exnowski
Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:24-10756 Peter David Slingerland

Chapter 13

#12.00 Hearing re: [36] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2380 Chippewa Lane, Ventura, CA 93001

Docket 36

Tentative Ruling:

July 8, 2025

Appearances waived. The Court will grant the Motion pursuant to 11 U.S.C. § 362(d)(1), including the request to waive the co-debtor stay, but will deny the request to waive Fed. R. Bankr. P. 4001(a), for the reasons stated *infra*. Movant to upload a conforming order within 7 days.

NewRez LLC d/b/a Shellpoint Mortgage Servicing as servicer for Federal Home Loan Mortgage Corporation, as Trustee for Freddie Mac Seasoned Loans Structured Transaction Trust, Series 2021-1 ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 2380 Chippewa Lane, Ventura, California 93001 (the "Property") of Peter David Slingerland (the "Debtor") on the grounds that (1) Movant's interest in the Property is not adequately protected, and (2) the Debtor has failed to make postpetition mortgage payments as they became due under the *First Amended Chapter 13 Plan* (the "Plan"). See Docket No. 36, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief (1) to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement by contacting the Debtor, (3) terminate the co-debtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay prescribed by FRBP 4001(a)(3), (5) if relief from stay is not granted, adequate protection be ordered, and (6) reasonable attorney fees and court filing costs not to exceed \$1,549.00. See *id.*, p 5, *Continuation Page*.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Peter David Slingerland

Chapter 13

Notice

On June 10, 2025, the Motion was filed and served upon the Debtor and the non-filing co-debtor via U.S. Mail, first class, postage prepaid. *See id.*, *Proof of Service of Document*, p. 12. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties, including the Debtor.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay [] for cause, including the lack of adequate protection of an interest in property of such party in interest." "Failure to make post-confirmation payments can constitute cause for lifting the stay." *See In re Ellis*, 60 B.R. 432, 435 (9th Cir. 1985).

Under the terms of the Plan, the Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 21, pp. 5-6, Class 2. Movant asserts that the Debtor defaulted on three (3) unpaid postconfirmation payments of \$1,389.51. *See* Docket No. 36, p. 9. Less a suspense account of \$15.98, Movant asserts a total postconfirmation delinquency of \$4,152.55 (as of the date of the Motion) with a payment of \$1,389.51 becoming due June 1, 2025. *See id.* According to the Motion, the last monthly payment of \$1,400.00 was received by Movant on March 18, 2025. *See id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make no less than three (3) postpetition/postconfirmation mortgage payments pursuant to the terms of the Plan.

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *See In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Peter David Slingerland

Chapter 13

grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *See id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Peter David Slingerland

Represented By
Kevin Tang

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Jacqueline D Serrao

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10015 Margaret Olshane

Chapter 13

#13.00 Hearing re: [33] Notice of motion and motion for relief from the automatic stay
with supporting declarations PERSONAL PROPERTY RE: 2019 Toyota Corolla

Docket 33

***** VACATED *** REASON: Order granting relief from stay entered
6/20/25**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margaret Olshane

Represented By
Steven Abraham Wolvek

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10015 Margaret Olshane

Chapter 13

#14.00 Hearing re: [34] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Toyota Corolla

Docket 34

*** VACATED *** REASON: Order granting relief from stay entered
7/3/25

Tentative Ruling:

July 8, 2025

Appearances waived.

The Motion is granted pursuant to 11 U.S.C. § 362(d)(1) for the reasons stated *infra*. The request to waive Fed. R. Bankr. P. 4001(a) is denied. Movant to lodge a conforming order within 7 days.

On May 29, 2025, Toyota Motor Credit Corporation ("Movant") filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Personal Property)* (the "Motion") seeking to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to a 2022 Toyota Corolla (the "Vehicle") of Margaret Olshane (the "Debtor") on the grounds that (1) Movant's interest in the Vehicle is not adequately protected by an equity cushion, (2) proof of insurance regarding the Vehicle has not been provided, and (3) post-confirmation payments have not been made to Movant pursuant to the terms of the *2nd Amended Chapter 13 Plan* (the "Plan"). See Docket No. 34, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests (1) relief to proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the Vehicle, (2) waiver of the 14-day stay provided under Fed. R. Bankr. P. 4001(a)(3), and (3) if relief is not granted, the Court order adequate protection. See *id.*, p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on May 29, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. See Motion, *Proof of Service of Document*. Pursuant to this Court's Local Rule 9013-1(h), "if a party does

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Margaret Olshane

Chapter 13

not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Neither the Debtor, nor any other party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties.

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). The failure of a debtor to make post-petition payments on a secured obligation may constitute cause. *See In re Watson*, 286 B.R. 594, 604 (Bankr. D. NJ 2002).

Here, Movant asserts a secured claim against the Vehicle in the amount of \$21,514.29. *See* Docket No. 34, p. 8. The claim is swelling by the day due to an absence of pre and post confirmation payments by the Debtor. *See id.*, at *Exhibit 3*. The payments to Movant on the Vehicle pursuant to the underlying loan agreement are tardy by five (5) months. *See id.*, p. 9. Four (4) post-petition preconfirmation payments of \$448.38 have not been made, and one (1) post-confirmation payment of \$448.38 has not been made. *See id.* There is a total postpetition delinquency of \$2,241.90. *See id.* Additionally, there is no evidence that the Debtor has insurance on the Vehicle.

In light of the Debtor's failure to make post-petition payments, the ever-eroding equity in the Vehicle due to the lack of payments, and the failure to provide evidence of insurance on the Vehicle, "cause" exists to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Fed. R. Bankr. P. 4001(a)

The Court will not waive the 14-day stay under Fed. R. Bankr. P. 4001(a)(3) as no analysis has been provided by Movant as to why such relief is warranted.

Party Information

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Margaret Olshane

Chapter 13

Debtor(s):

Margaret Olshane

Represented By
Steven Abraham Wolvek

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10107 Alicia Realica Alinaya

Chapter 13

#15.00 Hearing re: [34] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Steven Walczak et al. v. Alicia R. Alinaya, Superior Court of the State of California, County of Ventura Case No. 56-2022-00563119-CU-OR-VTA

Docket 34

Tentative Ruling:

July 8, 2025

Appearances required. The Court will grant the Motion for "cause" under 11 U.S.C. § 362(d)(1) for the reasons stated *infra*. The request to waive the 14-day stay FRBP 4001(a)(3) is denied. Movant to lodge a conforming order within 7 days.

Steven Walczak and Samantha Walczak ("Movant") seek a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) to proceed against the debtor, Alicia Realica Alinaya (the "Debtor"), in the nonbankruptcy action *Steven Walczak et al. v. Alicia R. Alinaya* (56-2022-00563119-CU-OR-VTA) filed on February 17, 2022 (the "Nonbankruptcy Action"), pending before the Superior Court of the State of California, County of Ventura. *See Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum)* (the "Motion") (Docket No. 34).

Movant seeks relief from stay on the grounds that (1) mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or adversary complaint under 11 U.S.C. §§ 523 or 727 in this bankruptcy case, and (2) the claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum. *See id.*, p. 3. Movant also requests relief (1) to proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or the property of the

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Alicia Realica Alinaya

Chapter 13

Debtor's bankruptcy estate, and (2) waiver of the 14-day stay prescribed by FRBP 4001(a)(3). *See id.*, pp. 4-5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail first class, postage prepaid on June 2, 2025, notifying the Debtor that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*, p. 9.

On June 24, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). *See* Docket No. 40. In the Response, the Debtor asserts that (1) Movant has let the Nonbankruptcy Action languish, and its claim now remains unliquidated, contingent, and disputed, and is properly before this Court for resolution through the claims allowance process, (2) Movant's delay in litigating the Nonbankruptcy Action, the doctrine of laches, and prejudice warrant denial of relief from stay, (3) this Court is the most efficient forum to litigate the claim, and (4) there is no bad faith on the part of Debtor. *See* Docket No. 40.

Analysis

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay for cause, including the lack of adequate protection of an interest in property of such party in interest." Beyond the lack of adequate protection, "cause" is determined on a case-by-case basis. *See In re MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985). "Courts in the Ninth Circuit have granted stay relief to permit the conclusion of pending litigation in a nonbankruptcy forum when the litigation involves multiple parties or is ready for trial." *In re Wang*, 2010 WL 6259970 *5 (9th Cir. BAP 2010) (citing *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1169 (9th Cir. 1990)). "Courts have also considered whether permitting the conclusion of pending litigation is in the interest of judicial economy or within the expertise of a state court." *Id.* (citing *In re MacDonald*, 755 F.2d 715 at 717).

"Courts evaluate several non-exclusive factors to determine if cause exists to permit pending litigation to continue in another forum [including:]

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Alicia Realica Alinaya

Chapter 13

- (1) Whether the relief will result in a partial or complete resolution of the issues;
- (2) The lack of any connection with or interference with the bankruptcy case;
- (3) Whether the foreign proceeding involves the debtor as a fiduciary;
- (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
- (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
- (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
- (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties;
- (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination;
- (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
- (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and
- (12) The impact of the stay and the 'balance of the hurt.'"

Id. (citing *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Ut. 1984); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559 (Bankr. C.D. Cal. 2004); *In re Sonnax Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990); *In re Smith*, 389 B.R. 902, 918-919

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... **Alicia Realica Alinaya**
(Bankr. D. Nev. 2008).

Chapter 13

"A motion for stay relief is a summary proceeding." *In re Santa Clara County Fair Ass'n, Inc.*, 180 B.R. 564, 566 (9th Cir. BAP 1995)(citing *In re Computer Communications, Inc.*, 824 F.2d 725, 729 (9th Cir. 1987)). "In a summary proceeding, the court's discretion is broad." *Id.*

The Status of the Case

On February 13, 2025, the Debtor filed that *Original Chapter 13 Plan*. See Docket No. 14. The Debtor filed that *1st Amended Chapter 13 Plan* on April 15, 2025. See Docket No. 22. On April 16, 2025, the Debtor filed a corrected *1st Amended Chapter 13 Plan* (the "Plan"). See Docket No. 25. The Debtor does not include Movant's claim in the Plan. See *id.*

Whether a Proof of Claim was Filed

On April 10, 2025, Movant filed Claim No. 8 in the amount of \$876,318.34, as a general unsecured non-priority claim. See Claim No. 8. On May 14, 2025, the Debtor filed that *Objection to Claim No. 8 Filed by Steven Walczak & Samantha Walczak* (the "Objection"). See Docket No. 30. The hearing on the Objection was initially set for June 17, 2025, at 1:00 p.m., and continued to June 17, 2025.

Curtis Factors

Whether the relief will result in a partial or complete resolution of the issues

Were the Court to grant the Motion, Movant would be allowed to proceed with the default prove-up against the Debtor in the effort to obtain a judgment against the Debtor, or *vice-versa*. The complaint in the Nonbankruptcy Action alleges claims for relief for (1) breach of the CC&Rs, (2) nuisance, and (3) declaratory relief. See Docket No. 34, at *Exhibit 2*. At this point in time, Movant has not filed an adversary case against the Debtor to determine nondischargeability of debt but has filed a proof of claim and the Debtor has objected to such claim. The validity of the underlying claim could be determined by this Court, but litigation would start anew. In the Response, the Debtor asserts that Movant's delay in the Nonbankruptcy Action is grounds to deny the Motion because it prejudices the Debtor and the creditors of the estate. While there may have been delay on Movant's part in the Nonbankruptcy

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Alicia Realica Alinaya

Chapter 13

Action, only further delay would occur in this Court because litigation would have to start anew. It is also true that the Debtor's filing of this case caused additional delay in the Nonbankruptcy Action.

It is not lost on this Court that the court in the Nonbankruptcy Action has issued terminating sanctions against the Debtor for several discovery issues. The Debtor seeks this forum as a do-over of those terminating sanctions.

A judgment in the Nonbankruptcy Action should more expeditiously resolve the validity and amount of Movant's claim and the parties could return to this Court for the treatment of such claim, if one exists. Therefore, the favor weighs in favor of Movant.

The lack of any connection with or interference with the bankruptcy case

The Debtor filed a Chapter 13 bankruptcy case. *See* Docket No. 1. The 341(a) meeting was held on March 5, 2025. *See* Docket No. 4. The confirmation hearing was initially held on April 17, 2025, then subsequently continued twice to July 17, 2025, until after the hearing on the Objection. *See* Docket Nos. 4, 28, 33.

The Debtor's case is proceeding through the Chapter 13 process, but cannot proceed through confirmation until the Objection, and validity and/or amount of Movant's claim has been determined. The Nonbankruptcy Action only involves the Debtor and Movant and state law issues.

The State Court would likely render a judgment in the Nonbankruptcy Action faster than this Court given that the Nonbankruptcy Action was previously set for a default prove-up hearing on February 25, 2025 (after the State Court granted Movant's motion for terminating sanctions), which would have gone forward but for the Debtor filing for bankruptcy. *See* Docket No. 34, p. 6, *Exhibit 1*. If the Motion is granted, Movant believes that the default prove-up hearing would be reset by October 1, 2025. *See id.*, p. 7.

Given that the Objection was just recently filed with this Court, all litigation would need to start anew with this Court, including discovery. Any evidentiary hearing would not likely be set until well into 2026.

In either situation there would be some delay, but the delay would be more significant

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Alicia Realica Alinaya

Chapter 13

if the Motion was not granted. This factor weighs in favor of Movant.

Whether the foreign proceeding involves the debtor as a fiduciary

It does not appear that the Nonbankruptcy Action asserts the Debtor to have maintained a fiduciary capacity.

Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases

The Nonbankruptcy Action involves causes of action for breach of the CC&Rs, nuisance, and declaratory relief. *See id.*, at *Exhibit 2*. The State Court is not a specialized tribunal, and there is not a specialized expertise required of the State Court to hear the Action. *See In re Curtis*, 40 B.R. 795 at 800 (specialized tribunals such as a board of contract appeals, state compensation panel, and state courts related to issues such as "unsettled questions of state property law...").

Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation

It does not appear that an insurance carrier has assumed financial responsibility for defending the litigation.

Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question

The Nonbankruptcy Action is between Movant and the Debtor and is not based on goods on which the Debtor functions as a bailee or conduit for.

Whether the litigation in another forum would prejudice the interests of other creditors, the creditor's committee and other interested parties

There is no evidence that litigation of the Nonbankruptcy Action would prejudice other creditors or interested parties. In fact, just the opposite. Resolving the Nonbankruptcy Action would provide creditors with an understanding about where the instant case is heading, and therefore what payments on their claims they may expect.

Whether the judgment claim arising from the foreign action is subject to equitable

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... **Alicia Realica Alinaya**
subordination

Chapter 13

This factor is not applicable to the Debtor.

Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f)

This factor is not applicable to the Debtor.

The interests of judicial economy and the expeditious and economical determination of litigation for the parties

The State Court has presided over the Nonbankruptcy Action since its filing in 2022. *See id.*, p. 6. Litigation in the Nonbankruptcy Action is in its late stages. The State Court has resolved of number of issues, including the granting of Movant's motion for terminating sanctions, and dismissing the Debtor's cross-complaint against Movant. *See id.*, at *Exhibit 1*. A prove-up hearing on Movant's motion for default judgment was set for hearing on February 2, 2025. *See id.* It appears that the State Court would have conducted the prove-up hearing but for the Debtor's filing of this bankruptcy case. Therefore, the Action would be most expeditiously resolved in State Court.

Whether the foreign proceedings have progressed to the point where the parties are prepared for trial

The prove-up hearing in the Nonbankruptcy Action was set for February 25, 2025. *See id.* It appears that significant litigation has already occurred, and the parties are currently ready to proceed with the prove-up hearing, which should resolve the case.

This factor weighs in favor of Movant.

The impact of the stay and the 'balance of the hurt'

The Nonbankruptcy Action has been pending in State Court for approximately three and a half years. The Nonbankruptcy Action appears nearly concluded. Movant would be significantly hurt if the stay relief was not granted.

This factor breaks in favor of Movant.

Conclusion

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Alicia Realica Alinaya

Chapter 13

Analyzing the totality of the circumstances, and as guided by the Curtis factors, the Court finds cause to lift the stay pursuant to 11 U.S.C. § 362(d)(1).

As the Court is granting the Motion pursuant to 11 U.S.C. § 362(d)(1), it need not reach the issues of mandatory abstention.

Fed. R. Bankr. P. 4001(a)(3)

As to Fed. R. Bankr. P. 4001(a)(3), "[t]he purpose of this provision is to permit a short period of time for the debtor or the party opposing relief to seek a stay pending an appeal of the order." *In re Sternitzky*, 635 B.R. 353, 361 (Bankr. W.D. Wis. 2021). "The party obtaining relief from the automatic stay may persuade the court to grant a shorter time period for the debtor to seek a stay pending appeal, or even grant no time." *Id.* No analysis has been provided to support the request to waive the application of Fed. R. Bankr. P. 4001(a)(3), and so the Court declines to do so.

Party Information

Debtor(s):

Alicia Realica Alinaya

Represented By
Ronda Baldwin-Kennedy

Movant(s):

Steven Walczak and Samantha

Represented By
John C Steele

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10580 Pamela S. Kristjansson

Chapter 13

#16.00 Hearing re: [21] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1575 Larkfield Ave Thousand Oaks, CA 91362

Docket 21

Tentative Ruling:

July 8, 2025

Appearances required. No stay was triggered by the filing of the instant case as it relates to the Property given a prior court order lifting the stay under 11 U.S.C. § 362(d)(4). What is more, it is not clear that the Property constitutes property of the Debtor's estate. The Motion does not request an order confirming that no stay is in effect. The Court is inclined to deny the Motion as moot.

U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for RCAF Acquisition Trust, its assignees and/or successors, by and through its servicing agent Selene Finance LP ("Movant"), seeks a lifting of the automatic stay pursuant to 11 U.S.C. § 362(d)(1) in relation to the real property located at 1575 Larkfield Ave., Thousand Oaks, CA 91362 (the "Property") of Pamela S. Kristjansson (the "Debtor") on the grounds that (1) the bankruptcy case was filed in bad faith, (2) the Debtor has failed to make postpetition mortgage payments as they became due under the *Original Chapter 13 Plan* (the "Plan"), and (3) pursuant to 11 U.S.C. § 362(d)(4), the Debtor's filing of the bankruptcy petition was part of a scheme to delay, hinder, or defraud creditors. See Docket No. 21, *Motion for Relief from Stay Under 11 U.S.C. § 362* (the "Motion"), pp. 3-4.

In addition to lifting the stay, Movant requests relief (1) to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property, (2) termination of the co-debtor stay of 11 U.S.C. § 1301(a), (3) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3), (4) a designated law enforcement officer may evict the Debtor and any other occupant from the Property regardless of any future bankruptcy filing concerning the Property for a period of 180

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

days from the hearing on the Motion upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law, (5) relief from the stay be granted under 11 U.S.C. § 362(d)(4): if recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order be binding in any other case under this title purporting to affect the Property filed not later than 2 years after the date of the entry of the order by the court, except that a debtor in a subsequent case under this title may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing, (6) the order be binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the Property for a period of 180 days from the hearing on the Motion upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law, and (7) the order be binding and effective in any future bankruptcy case, no matter who the debtor may be upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law. *See id.*, p. 5.

Notice

The Motion was filed on June 4, 2025, and served upon the Debtor and the non-filing co-debtor via U.S. Mail first class, postage prepaid on the same date, notifying the Debtor and the non-filing co-debtor that pursuant to this Court's Local Rule 9013-1(f) (1), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service of Document*.

On June 24, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). *See* Docket No. 24. In the Response, the Debtor asserts that (1) the bankruptcy case was not filed in bad faith, and (2) all postpetition arrears will be cured by the hearing date on the Motion or the Debtor will enter into an adequate protection agreement with Movant. *See id.*

Analysis

11 U.S.C. § 362(d)(1)

Pursuant to 11 U.S.C. § 362(d)(1), "[o]n request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

[] for cause, including the lack of adequate protection of an interest in property of such party in interest." Filing a petition in bad faith may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). Moreover, failure to make postpetition mortgage payments as they become due in a Chapter 13 case may constitute "cause" for relief from the automatic stay under § 362(d)(1). *See In re Marks*, 2012 WL 6554705, at *11 (9th Cir. BAP Dec. 14, 2012), *aff'd*, 624 F. App'x 963 (9th Cir. 2015) (citing *In re Ellis*, 60 B.R. 432, 435 (9th Cir. BAP 1985)).

Pursuant to 11 U.S.C. § 541(a)(2), "[a]ll interests of the debtor's and the debtor's spouse in community property as of the commencement of the case that is (A) under the sole, equal, or joint management and control of the debtor; or (B) liable for . . . both an allowable claim against the debtor and an allowable claim against the debtor's spouse" become part of a debtor's bankruptcy estate. Under California law, property acquired during marriage is presumed to be community property. Cal. Fam. Code § 760. A "transmutation," which changes the character of property from community to separate or vice versa, requires a written agreement containing an express declaration that is signed by the spouse whose interest is adversely affected. *See In re Marriage of Benson*, 36 Cal. 4th 1096, 1103 (2005).

Movant asserts that the Debtor possesses a "[s]pousal interest" in the Property. *See* Docket No. 21, p. 7. On September 20, 2005, the Debtor's spouse, Kris Kristjansson ("Kris"), executed a deed of trust with Washington Mutual Bank, FA. *See id.*, at *Exhibit 1*, p. 1. On October 5, 2005, Kris and Washington Mutual Bank, FA executed a prepetition promissory note (the "Note") secured by the Property. *See id.*, at *Exhibit 3*, p. 1. Kris was the sole signee on the Note as "a married man as his sole and separate property." *See id.*, p. 6. Thereafter, Washington Mutual Bank, FA assigned the trust deed and the Note to JPMorgan Chase Bank ("Chase"), who thereafter assigned them to Movant. *See id.*, at *Exhibit 2*, pp. 1-2. On August 11, 2011, a grant deed was executed wherein Kris granted Joe V. August ("Joe") 1% interest in the Property. *See id.*, at *Exhibit 5*.

It is not clear if the Property is community or separate as the Motion and the evidence provided therein do not indicate whether there was a separate written agreement between the Debtor and Kris. If the Property is not property of the estate, the Motion

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... **Pamela S. Kristjansson**
is moot.

Chapter 13

The Debtor appears to claim a community property interest as she lists the Property on that *Schedule A/B: Property* and lists a \$1,509,364.00 secured claim on the Property on that *Schedule D: Creditors Who Have Claims Secured by Property*. See Docket No. 15, *Schedule A/B*, p. 1, *Schedule D*, p. 1. The Debtor also proposes to pay Movant's claim through the Plan. See Docket No. 16, pp. 5-6, Class 2. Under the terms of the Plan, the Debtor is required to make regular payments to Movant pursuant to the Note. See *id.* Movant asserts that the Debtor defaulted on the Plan payments consisting of one (1) payment of postpetition preconfirmation payment of \$8,192.16. See Docket No. 21, p. 9. An additional payment of \$8,192.16 became due on June 1, 2025. See *id.*

Cause has been shown sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1) due to the Debtor's failure to make a postpetition mortgage payment pursuant to the Note, if in-fact the Property is property of the Debtor's estate.

11 U.S.C. § 362(d)(4)

Movant asserts that the Debtor's bankruptcy case was filed in bad faith as part of a scheme to hinder, delay, or defraud creditors, because the Property is the subject of multiple bankruptcy filings. To obtain relief under 11 U.S.C. § 362(d)(4), the Court must find the following three (3) elements are present: (1) the Debtor's bankruptcy filing was part of a scheme; (2) the object of the scheme was to delay, hinder or defraud creditors; and (3) 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 Dorsey*, 476 B.R. 261, 265–66 (Bankr. C.D. Cal. 2012) (citing *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870–871 (9th Cir. BAP 2012)).

"A bankruptcy court may grant *in rem* relief from the automatic stay under § 362(d)(4) to prevent schemes using bankruptcy to thwart foreclosures through one or more real property transfers or bankruptcies." *In re Jimenez*, 613 B.R. 537, 545 (9th Cir. BAP 2020) citing *First Yorkshire Holdings, Inc.*, 470 B.R. at 870. "A scheme is an intentional construct. It does not happen by misadventure or negligence." *Id.* (citing *In re Duncan & Forbes Dev., Inc.*, 368 B.R. 27, 32 (Bankr. C.D. Cal. 2006)).

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

Again, the starting point here is that it is not clear if the Property constitutes property of the Debtor's estate.

On June 11, 2012, Kris filed for relief under Chapter 11 of Title 11 of the United States Code (the "2012 Case"). *See* Case No. 1:12-bk-15419. Kris listed the Property on that *Schedule A - Real Property* and listed a \$1,200,000.00 secured claim on the Property on that *Schedule D: Creditors Holding Secured Claims*. *See* Case No. 1:12-bk-15419, Docket No. 21, *Schedule A*, p. 1, *Schedule D*, p. 1. On October 12, 2012, Chase, the assignor of Movant's trust deed, filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 Regarding Real Property* based on lack of equity in the Property (-\$1,013,113.67). *See* Case No. 1:12-bk-15419, Docket No. 63, p. 8. On December 11, 2012, that *Order Granting Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property)* was entered. *See* Case No. 1:12-bk-15419, Docket No. 74. On March 14, 2013, the 2012 Case was dismissed without a discharge for other reasons. *See* Case No. 1:12-bk-15419, Docket No. 85.

On February 24, 2013, Kris filed for relief under Chapter 11 of Title 11 of the United States Code (the "2013 Case"). *See* Case No. 1:13-bk-11237. Kris listed the Property on that *Schedule A - Real Property* and listed a \$1,832,263.71 secured claim and a \$982,263.71 unsecured claim on the Property on that *Schedule D: Creditors Holding Secured Claims*. *See* Case No. 1:13-bk-11237, Docket No. 15, *Schedule A*, p. 1, *Schedule D*, p. 1. On July 15, 2013, Chase filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 Regarding Real Property* based on lack of equity in the Property (-\$663,470.03). *See* Case No. 1:13-bk-11237, Docket No. 44, p. 9. On August 14, 2013, that *Order Granting Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property)* was entered. *See* Case No. 1:13-bk-11237, Docket No. 50. On October 28, 2014, the 2013 Case was dismissed without a discharge upon a motion to dismiss filed by the United States Trustee. *See* Case No. 1:13-bk-11237, Docket No. 68.

On November 14, 2014, Kris filed for relief under Chapter 7 of Title 11 of the United States Code (the "2014 Case"). *See* Case No. 9:14-bk-12524. Kris listed the Property on that *Schedule A - Real Property* and listed a \$1,262,258.00 secured claim and a \$62,258.00 unsecured claim on the Property on that *Schedule D: Creditors Holding Secured Claims*. *See* Case No. 9:14-bk-12524, Docket No. 11, *Schedule A*, p. 1,

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

Schedule D, p. 1. On March 11, 2015, the 2014 Case was dismissed without a discharge for failure to appear at 341(a) meeting. *See* Case No. 9:14-bk-12524, Docket No. 24.

On November 1, 2024, Kris filed for relief under Chapter 13 of Title 11 of the United States Code (the "November 2024 Case"). *See* Case No. 1:24-bk-11846. On November 26, 2024, the November 2024 Case was dismissed without a discharge for failure to file schedules, statements, and/or plan. *See* Case No. 1:24-bk-11846, Docket No. 14.

On December 4, 2024, Kris filed for relief under Chapter 13 of Title 11 of the United States Code (the "December 2024 Case"). *See* Case No. 1:24-bk-12025. On January 22, 2025, the December 2024 Case was dismissed without a discharge for failure to file schedules, statements, and/or plan. *See* Case No. 1:24-bk-12025, Docket No. 18.

On February 24, 2025, Joe filed for relief under Chapter 13 of Title 11 of the United States Code (the "February 2025 Case"). *See* Case No. 2:25-bk-11383. On March 21, 2025, the February 2025 Case was dismissed without a discharge for failure to file schedules, statements, and/or plan. *See* Case No. 2:25-bk-11383, Docket No. 13.

On March 26, 2025, Joe filed for relief under Chapter 13 of Title 11 of the United States Code (the "March 2025 Case"). *See* Case No. 2:25-bk-12467. On April 10, 2025, Movant filed that *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 Regarding Real Property* based on bad faith bankruptcy filing. *See* Case No. 2:25-bk-12467, Docket No. 11, p. 4. On May 7, 2025, that *Order Granting Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property)* (the "Order") was entered. *See* Case No. 2:25-bk-12467, Docket No. 19. Pursuant to the terms of the Order, relief was granted pursuant to 11 U.S.C. § 362(d)(4) with regard to the Property as follows: "[i]f recorded in compliance with applicable state laws governing notices of interests or liens in real property, this order shall be binding in any other case under this title purporting to affect the Property filed not later than 2 years after the date of the entry of this order by the court, except that a debtor in a subsequent case under this title may move for relief from this order based upon changed circumstances or for good cause shown, after notice and a hearing. Any federal, state or local government unit that accepts notices of interests or liens in real property shall accept any certified copy of this order for indexing and recording." *See id.* at p. 2. The

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

Order further provided that "[t]his order is binding and effective in any future bankruptcy case, no matter who the debtor may be upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law." *See id.* at p. 3. On May 15, 2025, the Order was recorded with the Official Records Ventura County Clerk-Recorder Michelle Ascencion. *See* Case No. 2:25-bk-12467, Docket No. 24, p. 1. On May 15, 2025, the March 2025 Case was dismissed without a discharge for failure to file schedules, statements, and/or plan. *See* Case No. 2:25-bk-12467, Docket No. 13.

Under the Plan, the Debtor only lists the claim to Movant, \$14,517.50 in unsecured claims, and \$4,963.00 in attorney's fees. *See* Docket No. 16. The Debtor proposes to pay Movant its contractual installment payments and \$280,438.00 in arrears via monthly payments of \$4,835.14 for 60 months. *See id.*, pp. 5-6, Class 2. The Debtor's primary purpose of filing this case appears to be to further delay Movant's foreclosure of the Property. There have been eight (8) bankruptcy filings used to stop the foreclosure of the Property. The seven prior bankruptcy cases have all been dismissed prior to discharge or the confirmation of a plan of reorganization.

Cause has been shown sufficient to lift the automatic stay based on bad faith pursuant to 11 U.S.C. § 362(d)(4) due to the multiple bankruptcy filings by Kris, Joe, and the Debtor as a scheme to delay Movant.

Prior Relief Under 11 U.S.C. § 362(d)(4)

Pursuant to 11 U.S.C. § 362(d)(4), relief from the stay granted under this section "[if] recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order is binding in any other case under this title purporting to affect the Property filed not later than 2 years after the date of the entry of the 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 hearing." *In re Alakozai*, 499 B.R. 698 (9th Cir. BAP 2013) (finding that "the filing of a subsequent bankruptcy case will not operate to stay the enforcement of a lien against that real property during the period that such recorded order remained in effect"); *see also In re First Yorkshire Holdings, Inc.*, 470 B.R. at 871 (finding that "such relief nullifies the ability of the debtor and any other third party with an interest in the property to obtain the benefits of the automatic stay in

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Pamela S. Kristjansson

Chapter 13

future bankruptcy cases for a period of two years").

Here, the Order was recorded on May 15, 2025, in compliance with 11 U.S.C. § 362(d)(4). The Debtor has not filed any motion for relief from the Order, if the Property is even property of the Debtor's estate. Therefore, pursuant to 11 U.S.C. § 362(d)(4), the Order is binding in this Case as it purports to affect the Property and this Case was filed within 2 years after entry of the Order.

Party Information

Debtor(s):

Pamela S. Kristjansson

Represented By
Onyinye N Anyama

Movant(s):

U.S. BANK TRUST NATIONAL

Represented By
David Coats

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10602 Bradley James Sparks

Chapter 13

#17.00 Hearing re: [11] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 4998 Thorn Ridge Court, Simi Valley, CA 93063, Assessor Parcel No. 614-0-200-035

Docket 11

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is denied for the reasons stated *infra*. Movant to upload a conforming order within 7 days.

Background

On May 1, 2025 (the "Petition Date"), Bradley James Sparks (the "Debtor") filed a voluntary petition under Chapter 13 of Title 11 of the United States Code (this "Case"). See Case No. 9:25-bk-10602-RC, Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. Hereinafter, all citations to the docket will refer to this Case unless otherwise specified.

Prior to this Case, on September 24, 2024, the Debtor filed a petition for relief under Chapter 13 of Title 11 of the United States Code. See Case No. 9:24-bk-11080-RC, Docket No. 1 (the "First Case"). The First Case was dismissed on February 13, 2025, at the confirmation hearing. See First Case, Docket 21. **[FN 1]**

On June 2, 2025, the Debtor filed in this Case that *Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate* (the "Motion") seeking to continue the automatic stay as to all of the Debtor's creditors related to a parcel of real property located at 4998 Thorn Ridge Court, Simi Valley, CA 93063 (the "Property") pursuant to 11 U.S.C. § 362(c) (3). See Docket No. 13. The Debtor contends that this Case was filed in good faith because he has had a change in personal situation. See *id.*, pp. 5-6.

Notice

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Bradley James Sparks

Chapter 13

Pursuant to this Court's Local Rule 4001-1(d)(1), "[a] party in interest seeking an extension of the stay under 11 U.S.C. § 362(c)(3)(B) [] must file a motion and serve the motion, notice of hearing, and supporting documents as provided in subsection (c) (1) of this rule and upon all other parties in interest against whom extension or imposition of the stay is sought."

This Court's Local Rule 2002-2(a)(1) provides that "[p]ursuant to FRBP 2002(k), FRBP 9034 and these rules, and unless otherwise directed, a copy of any document filed by a person or entity in a bankruptcy case or adversary proceeding under chapters 7, 9, or 11 must be served upon the United States trustee. In chapter 12 or 13 cases, only a notice of conversion or motion to convert the case to another chapter must be served upon the United States trustee. Proofs of claim or copies thereof must not be served upon the United States trustee."

The Motion and notice thereof were served upon Select Portfolio Servicing, Inc. ("SPS") via U.S. Mail First Class, postage prepaid on May 29, 2025, notifying the parties that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id.*, *Proof of Service Document*, p. 3. The Debtor did not serve any of his other creditors, the Chapter 13 trustee, or the United States trustee. Therefore, notice of the Motion is improper as to all parties except SPS.

Analysis

11 U.S.C. § 362(c)(3)

Pursuant to 11 U.S.C. § 362(c)(3)(A), where a Chapter 13 case is filed by a debtor, and where that debtor also had a Chapter 13 case dismissed within the year prior, "the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case."

"The majority interpretation [of 11 U.S.C. § 362(c)(3)(A)] finds the phrase 'with respect to the debtor' to be both critical and unambiguous, and concludes that on the 30th day after the petition date, the automatic stay terminates only with respect to the

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT...

Bradley James Sparks

Chapter 13

debtor and the debtor's property, but not as to property of the estate." *In re Reswick*, 446 B.R. 362, 365-366 (9th Cir. BAP 2011); *see also In re Thu Thi Dao*, 616 B.R. 103, 106 (Bankr. E.D. Cal. 2020); *In re Rinard*, 451 B.R. 12, 17 (C.D. Cal. 2011); *In re Madson*, 2022 WL 1272583 (E.D. Cal. April 27, 2022). "The plain text of § 362(c)(3)(A) is crystal clear that the automatic stay is terminated with respect to the [d]ebtor. There is no mention of the [e]state in the text." *In re Rinard*, 451 B.R. at 19–20.

Pursuant to 11 U.S.C. § 362(c)(3)(B), the debtor or any other interested party may seek to extend the automatic stay that otherwise would expire thirty days after the second petition is filed. The movant must demonstrate that the case was filed "in good faith as to the creditors to be stayed." *In re Sill*, 2018 WL 2728836, at *2 (9th Cir. BAP June 6, 2018) (*citing Reswick v. Reswick (In re Reswick)*, 446 B.R. 362, 368–69 (9th Cir. BAP 2011)).

Pursuant to 11 U.S.C. § 362(c)(3)(B), the hearing with respect to the stay extension motion must be "completed before the expiration of the 30-day period" under 11 USC § 362(c)(3)(A). "If the notice and hearing are not completed within this [30–day] period, the automatic stay terminates by operation of law pursuant to § 362(c)(3)(A)." *In re Garrett*, 357 B.R. 128, 131 (Bankr.C.D.Ill.2006); *see also In re Toro–Arcila*, 334 B.R. 224, 226 (Bankr.S.D.Tex.2005) ("Relief under § 362(c)(3)(B) may only be granted after notice and a hearing completed before the expiration of the 30–day period.").

Based on the majority view of the application of 11 U.S.C. § 362(c)(3)(A) *supra*, which this Court adopts, the automatic stay terminates as to the Debtor and the Debtor's personal property on the 30th day after the Petition Date in this Case, but not as to property of the bankruptcy estate.

Here, the Debtor filed the Motion on June 2, 2025, and self-calendared the hearing for July 8, 2025, at 9:00 a.m. Because the hearing on the Motion was not completed within 30 days of the Petition Date, the stay terminated as to the Debtor and the Debtor's personal property on May 31, 2025. *See* 11 U.S.C. § 362(c)(3)(B); *In re Garrett*, 357 B.R. 128, 131 (Bankr.C.D.Ill.2006). Therefore, the Motion is denied.

[FN 1] Prior to the First Case, the Debtor filed a petition for relief under Chapter 7 of Title 11 of the United States Code, which was closed on July 23, 2024, after the entry of a discharge. *See* Case No. 9:24-bk-10313-RC. On November 6, 2023, the Debtor

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

9:00 AM

CONT...

Bradley James Sparks

Chapter 13

also filed a petition for relief under Chapter 13 of Title 11 of the United States Code, which was dismissed on January 1, 2024, for failure to file case commencement documents. *See* Case No. 9:23-bk-11031-RC.

Party Information

Debtor(s):

Bradley James Sparks

Pro Se

Movant(s):

Bradley James Sparks

Pro Se

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

9:25-10775 Christina Cathleen Laughton

Chapter 13

#18.00 Hearing re: [9] Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate REAL PROPERTY - 2066 Penrose Court, Thousand Oaks, CA 91362

Docket 9

Tentative Ruling:

July 8, 2025

Appearances waived. The Motion is granted for reasons stated *infra*. Movant to upload a conforming order within 7 days.

Background

On September 27, 2024, Christina Cathleen Laughton (the "Debtor") filed a petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:24-bk-11102-RC (the "First Case"). The First Case was dismissed on March 24, 2025, at the Chapter 13 confirmation hearing. *See* First Case, Docket No. 25.

On June 9, 2025 (the "Petition Date"), the Debtor filed a further voluntary Chapter 13 petition under Title 11 of the United States Code. *See* Case No. 9:25-bk-10775-RC (this "Case") (hereinafter all citations to the Docket will refer to this Case unless otherwise specified).

On June 13, 2025, the Debtor filed that *Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate* (the "Motion") seeking to continue the automatic stay as to all of her creditors related to a parcel of real property located at 2066 Penrose Court, Thousand Oaks, CA 91362 (the "Property") pursuant to 11 U.S.C. § 362(c)(3). *See* Docket No. 9. The Debtor contends that this Case was filed in good faith, the Property is necessary for reorganization, and that the presumption of bad faith under 11 U.S.C. § 362(c)(3)(C) is overcome. *See id.*,

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... **Christina Cathleen Laughton**
pp. 5-6.

Chapter 13

Notice

Pursuant to this Court's Local Rule 4001-1(d)(1), "[a] party in interest seeking an extension of the stay under 11 U.S.C. § 362(c)(3)(B) [] must file a motion and serve the motion, notice of hearing, and supporting documents as provided in subsection (c) (1) of this rule and upon all other parties in interest against whom extension or imposition of the stay is sought."

The Motion and notice thereof were served upon all of the Debtor's creditors via U.S. Mail First Class, postage prepaid on June 13, 2025, and the Chapter 13 trustee and United States trustee via Notice of Electronic Filing, notifying the parties that pursuant to this Court's Local Rule 9013-1(d), any opposition to the Motion must be filed and served no less than fourteen (14) days prior to the hearing on the Motion. *See id., Proof of Service of Document*, p. 10. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Motion has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties that were served with the Motion.

Analysis

Pursuant to 11 U.S.C. § 109(e), "[o]nly an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$465,275 and noncontingent, liquidated, secured debts of less than \$1,395,875 [] may be a debtor under chapter 13 of this title." Pursuant to 11 U.S.C. § 101(30), "[t]he term 'individual with regular income' means individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13 of this title."

"It is not unusual for persons filing under Chapter 13 to include as part of the income from which they plan to meet their obligations under the plan contributions from spouses []. When Congress extended Chapter 13 to include other than wage earners, it

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Christina Cathleen Laughton

Chapter 13

indicated at the same time that it wished to take a liberal view of the income from which Chapter 13 payments could be made. Among the possible sources mentioned in the legislative history are welfare payments []. If the generosity of the Government can be considered in determining the income available for meeting Chapter 13 obligations, there seems no good reason for excluding the generosity of a close relative. Moreover, in the case of a husband, there is more than generosity to be considered; the state of matrimony imposes its own financial obligations." *See In re Cohen*, 13 B.R. 350, 356 (Bankr. E.D.N.Y. 1981). "The legislative history of what is now 11 U.S.C. § 101(30) is unusually clear that Congress intended to expand and broadly define "individual with regular income" to include funding from diverse and nontraditional sources." *See In re Murphy*, 226 B.R. 601, 604 (Bankr. W.D. Tenn. 1989); *see also In re Varian*, 91 B.R. 653, 654 (Bankr. D. Conn. 1988).

"Several courts have held that a nonfiling spouse's income can be regular income for § 101(30) purpose." *See In re Murphy*, 226 B.R. at 605; *see also In re Sigfrid*, 161 B.R. 220 (Bankr. D. Minn. 1993); *In re McLeroy*, 106 B.R. 147 (Bankr. W.D. Tenn. 1989); *In re Estella*, 101 B.R. 391 (Bankr. S.D. Fla. 1989); *In re Varian*, 91 B.R. 653.

Although the Ninth Circuit has not directly addressed whether the income of a non-filing spouse qualifies as regular income under 11 U.S.C. § 101(30), "[c]ourts are more likely to find contributions to be regular income where the nondebtor is a family member, particularly one who is obligated on some of the debts by contract or state law or where there is a lengthy history of stable payments." *See In re Deutsch*, 529 B.R. 308, 315 (Bankr. C.D. Cal. 2015). "[T]he court may require evidence of a 'firm commitment by the family member to make the contributions and a long and undisputed history of providing for the debtor.'" *See In re Richards*, 2022 WL 884593, at *21 (9th Cir. BAP 2022); *see also In re Deutsch*, 529 B.R. at 312.

While a debtor who proposes to fund a Chapter 13 plan solely through the sale proceeds of his or her residence is not eligible for Chapter 13 relief, a debtor may still qualify by proposing regular monthly payments supplemented by a lump-sum payment from the future sale of the residence. *See In re Gavia*, 24 B.R. 573, 575 (9th Cir. BAP 1982). "A construction that permits sole payment from liquidation of the debtor's property would render 11 U.S.C. § 109(e) meaningless and eliminate any difference between a Chapter 7 liquidation and a Chapter 13 debt adjustment." *See id.*

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Christina Cathleen Laughton

Chapter 13

Pursuant to 11 U.S.C. § 362(c)(3)(A), where a Chapter 13 case is filed by a debtor, and where that debtor also had a Chapter 13 case dismissed within the year prior, "the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case."

"The majority interpretation [of 11 U.S.C. § 362(c)(3)(A)] finds the phrase 'with respect to the debtor' to be both critical and unambiguous, and concludes that on the 30th day after the petition date, the automatic stay terminates only with respect to the debtor and the debtor's property, but not as to property of the estate." *In re Reswick*, 446 B.R. 362, 365-366 (9th Cir. BAP 2011); *see also In re Thu Thi Dao*, 616 B.R. 103, 106 (Bankr. E.D. Cal. 2020); *In re Rinard*, 451 B.R. 12, 17 (C.D. Cal. 2011); *In re Madson*, 2022 WL 1272583 (E.D. Cal. April 27, 2022). "The plain text of § 362(c)(3)(A) is crystal clear that the automatic stay is terminated with respect to the [d]ebtor. There is no mention of the [e]state in the text." *In re Rinard*, 451 B.R. 12 at 19-20.

Pursuant to 11 U.S.C. § 362(c)(3)(B), the debtor or any other interested party may seek to extend the automatic stay that otherwise would expire thirty days after the second petition is filed. The movant must demonstrate that the case was filed "in good faith as to the creditors to be stayed." *In re Sill*, 2018 WL 2728836, at *2 (9th Cir. BAP June 6, 2018) (citing *Reswick v. Reswick (In re Reswick)*, 446 B.R. at 368-369 (9th Cir. BAP 2011)).

"[F]or purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary) (i) as to all creditors if—(I) more than 1 previous case under [Chapter 13] in which the individual was a debtor was pending within the preceding 1-year period; (II) a previous case under [Chapter 13] in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney)." *See* 11 U.S.C. § 362(c)(3)(C).

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Christina Cathleen Laughton

Chapter 13

Based on the majority view of the application of 11 U.S.C. § 362(c)(3)(A) *supra*, which this Court adopts, the automatic stay terminates as to the Debtor on the 30th day after the Petition Date in this Case, but not as to property of the Debtor's bankruptcy estate. As to termination of the stay regarding the Debtor, as provided under 11 U.S.C. § 362(c)(3)(C), the Debtor must provide clear and convincing evidence that this Case was not filed in bad faith. The Debtor asserts that the First Case was dismissed for failure to file mortgage declarations. *See* Docket No. 9, p 4. The Debtor further asserts that "[she] filed the current case in good faith. [Her] goal is to get ALL of the creditors paid through [her] proposed bankruptcy plan, by selling [her] home that has over 350,000.00 after ALL creditors have been paid in full." *See id.*, *Debtor's Declaration in Support of Motion to Extend the Automatic Stay*, ¶ 3. The Debtor also asserts that "[she] made all the mortgage payments through the pendency of the [First Case], until [her] previous attorney told [her] that the case would be dismissed because [she] couldn't afford the plan payments to pay off the \$180,000.00 IRS tax lien." *See id.*, ¶ 9. "[She] was unaware until speaking to [her] new counsel [she] could sell [her] home inside of the bankruptcy case to pay off all [her] creditors." *See id.*, ¶ 4. "Had [she] known [she] could do this [she] would have filed a motion to sell [her] primary residence in the previous case and wouldn't have had to file the instant case (9:25-bk-10775-RC)." *See id.*, ¶ 5.

In this Case, the Debtor filed that *Original Chapter 13 Plan* (the "Plan") on June 9, 2025. *See* Docket No. 2. Pursuant to the terms of the Plan, the Debtor proposes to pay 100% to unsecured creditors via \$500.00 monthly payments for months 1 through 8, totaling \$4,000.00, followed by a lump sum payment of \$860,000.00 in month 9. *See id.*, p. 3. The Debtor scheduled \$8,451.00 in unsecured debts. *See* Docket No. 1, *Schedule E/F*, p. 4. Although the Debtor is unemployed, her non-filing spouse has a sufficient monthly net income of \$1,480.96 to fund the proposed monthly Plan payment for months 1 through 8. *See id.*, *Schedule I*, pp. 1-2, *Schedule J*, pp. 1-2. The Debtor asserts that she will sell the Property to fund the remaining plan payments. *See* Docket No. 9, p. 5. According to the Debtor's schedules, there are two liens on the Property. The first lien is in the amount of \$180,000.00 in favor of the Internal Revenue Service. *See* Docket No. 1, *Schedule D*, p. 1. The second lien is in the amount of \$582,667.54 in favor of Selene. *See id.*, p. 2. The Debtor asserts that the fair market value of the Property is \$1,175,300.00. *See id.*, pp. 1-2. [FN 1] The Debtor further asserts that she has already hired a real-estate agent, Donna Vella, who

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

9:00 AM

CONT... Christina Cathleen Laughton

Chapter 13

has agreed to sell the house. *See* Docket No. 9, p. 5. The Court accepts the representations of the Debtor and her counsel, and finds the Case was not filed in bad faith.

The Court grants the relief requested in the Motion that the stay be continued regarding the Debtor, and related to the Property, after July 9, 2025, as to those creditors served with the notice of the Motion, in overcoming the bad faith presumption under 11 U.S.C. § 362(c)(3)(C)(i).

[FN 1] After paying off the liens on the Property, the Debtor has a remaining equity of \$412,632.46, which she claims as her homestead exemption.

Party Information

Debtor(s):

Christina Cathleen Laughton

Represented By
Brent D George

Movant(s):

Christina Cathleen Laughton

Represented By
Brent D George

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:17-11962 Kerre K Klaft

Chapter 7

#19.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Sandra K. McBeth, Trustee. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report.

Docket 40

Tentative Ruling:

July 8, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report* (the "Report") filed by the duly appointed Chapter 7 Trustee, Sandra K. McBeth (the "Trustee"), for the bankruptcy estate of Kerre K. Klaft (the "Debtor") filed on June 13, 2025. *See* Docket No. 40.

On April 16, 2025, Griffith & Thornburgh, LLP ("GTLLP"), in its capacity as counsel to the Trustee, filed that *Final Application for Compensation and Reimbursement of Expenses by Griffith & Thornburgh, LLP, Bankruptcy Counsel to Chapter 7 Trustee, Sandra K. McBeth* (the "Application"), covering the period from November 21, 2017 to March 28, 2025, through which GTLLP requests allowance, on a final basis, of fees in amount of \$41,827.50 and reimbursement of expenses in the amount of \$2,073.36. *See* Docket No. 39.

On June 13, 2025, the Trustee filed that *Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object* (the "Notice") and served the Notice on the Notice of Electronic Filing [NEF] parties. *See* Docket No. 41. On June 15, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 42. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

As of the date of the filing of the Report, the Trustee had approximately \$185,501.55 in cash on hand. *See* Docket No. 40, p. 1.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Kerre K Klaft

Chapter 7

Through the Report, the Trustee, *inter alia*, seeks (1) the payment of the Trustee's statutory fee of \$7,276.97 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred in the amount of \$381.88, (2) the payment of fees in the amount \$41,827.50 and reimbursement of expenses in the amount of \$2,073.36 related to the Application, and (3) the payment of \$350.00 to the U.S. Bankruptcy Court. *See id.* at *Exhibit D*.

After payment to the Trustee, the Application, and the U.S. Bankruptcy Court, the balance of cash on hand for unsecured creditors is \$133,591.84. *See id.* This amount is sufficient to pay allowed unsecured claims a *pro-rata* distribution of approximately 100.00% with interest of 1.43% and a surplus of \$106,960.57 to be returned to the Debtor. *See id.*

Pursuant to 11 U.S.C. § 330, the Court allows GTLLP, on a final basis, fees in the amount of \$41,827.50 and expenses in the amount of \$2,073.36 and approves payment of the allowed fees in the amount of \$41,827.50 and expenses in the amount of \$2,073.36. The Court (1) approves the Report in conformance with 11 U.S.C. § 704(9), and (2) the Trustee is awarded their statutory fee in the amount of \$ 7,276.97 and reimbursement of the Trustee's expenses in the amount of \$ 381.88.

The Trustee is to upload a confirming order within 7 days.

Party Information

Debtor(s):

Kerre K Klaft

Represented By
Brenda A Enderle

Trustee(s):

Sandra McBeth (TR)

Represented By
Joseph M Sholder

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:23-10577 Charlene M. Wilson

Chapter 7

#20.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Sandra K. McBeth, Trustee. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report.

Docket 46

Tentative Ruling:

July 8, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report* (the "Report") filed by the duly appointed Chapter 7 Trustee, Sandra K. McBeth (the "Trustee"), for the bankruptcy estate (the "Estate") of Charlene M. Wilson (the "Debtor") on May 13, 2025. *See* Docket No. 46.

On March 25, 2025, the Trustee, in her capacity as counsel for the Estate, filed that *Application for Payment of Final Fees and/or Expenses* (the "Application"), through which the Trustee requested allowance, on a final basis, of fees in the amount of \$3,910.00 and reimbursement of expenses in the amount of \$59.58 covering the period from April 5, 2024, through March 24, 2025. *See* Docket No. 45.

On May 13, 2025, that *Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object* (the "Notice") was filed with the Court and served on the Notice of Electronic Filing [NEF] parties. *See* Docket No. 47. On May 16, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 48. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

As of the date of the filing of the Report, the Trustee had approximately \$68,131.34 in

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Charlene M. Wilson

Chapter 7

cash on hand. *See* Docket No. 46, p. 1.

Through the Report, the Trustee, *inter alia*, seeks (1) the payment of the Trustee's statutory fee in the amount of \$5,434.82 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred in the amount of \$352.19, (2) the payment of fees in the amount of \$3,910.00 and reimbursement of expenses in the amount of \$59.58 related to the Application, and (3) the payment of \$23,151.77 to the Debtor for the Debtor's exemptions. *See id.*, at *Exhibit D*.

After payment of the allowed priority claims, professionals, the Trustee, and the exemptions, the balance of cash on hand for unsecured creditors is \$0.00. *See id.*

The Court (1) approves the Report in conformance with 11 U.S.C. § 704(9), (2) the Trustee is awarded their statutory fee in the amount of \$5,434.82 and reimbursement of the Trustee's expenses in the amount of \$352.19, and (3) the Trustee is awarded, on a final basis, fees in the amount of \$3,910.00 and reimbursement of expenses in the amount of \$59.58 related to the Application.

The Trustee is to upload a confirming order within 7 days.

Party Information

Debtor(s):

Charlene M. Wilson

Represented By
Pamela J Marchese

Trustee(s):

Sandra McBeth (TR)

Represented By
Sandra McBeth

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:23-11007 Richard V Jackson

Chapter 7

#21.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Jeremy W. Faith. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report.

Docket 56

Tentative Ruling:

July 8, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report* (the "Report") filed by the duly appointed Chapter 7 Trustee, Jeremy W. Faith (the "Trustee"), for the bankruptcy estate of Richard V. Jackson on June 2, 2025. *See* Docket No. 56.

On June 2, 2025, that *Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object* (the "Notice") was filed with the Court and served on the Notice of Electronic Filing [NEF] parties. *See* Docket No. 57. On June 4, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 58. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has yet filed an opposition to the Report. The Court takes the default of all non-responding parties served with the Notice.

As of the date of the filing of the Report, the Trustee had approximately \$20,397.35 in cash on hand. *See* Docket No. 56, p. 1.

Through the Report, the Trustee, *inter alia*, seeks payment of the Trustee's statutory fee of \$2,815.43 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred of \$107.36. *See id.* at *Exhibit D*.

After payment for professionals and the Trustee, the balance of cash on hand for

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Richard V Jackson

Chapter 7

unsecured creditors is \$16,474.56. *See id.* This amount is sufficient to pay allowed unsecured claims a *pro rata* distribution of approximately 22.7%. *See id.*

The Court (1) approves the Report in conformance with 11 U.S.C. § 704(a)(9), and (2) the Trustee is awarded his statutory fee in the amount of \$2,815.43, and reimbursement of the Trustee's expenses in the amount of \$107.36.

The Trustee is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Richard V Jackson

Represented By
Jasmine Motazed

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10317 Jolie I Hiskett

Chapter 7

#22.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Jeremy W. Faith. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report.

Docket 65

Tentative Ruling:

July 8, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report* (the "Report") filed by the duly appointed Chapter 7 Trustee, Jeremy W. Faith (the "Trustee"), for the bankruptcy estate of Jolie I. Hiskett (the "Debtor") on June 2, 2025. *See* Docket No. 65.

On April 2, 2025, Zamora & Hoffmeier, a Professional Corporation ("Z&H"), in its capacity as counsel to the Trustee, filed that *First and Final Fee Application of Zamora & Hoffmeier, Trustee's Counsel, for Approval of Compensation and Reimbursement of Expenses* (the "Application"), covering the period from August 28, 2024, to April 1, 2025, seeking allowance, on a final basis, fees in the amount of \$9,350.00 and reimbursement of expenses in the amount of \$1,170.00. *See* Docket No. 64. Through the Application, Z&H has agreed to short payment of fees in the amount of \$5,555.00. *See id.* at p. 3, lines 19-21.

On June 2, 2025, the Trustee filed that *Notice of Trustee's Final Report and Applications for Compensation and Deadline to Object* (the "Notice") and served the Notice on the NEF parties. *See* Docket No. 66. On June 4, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 67. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Report. The Court therefore takes the default of all non-responding parties.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Jolie I Hiskett

Chapter 7

As of the date of the filing of the Report, the Trustee had approximately \$41,919.26 in cash on hand. *See* Docket No. 65, p. 1.

Through the Report, the Trustee, *inter alia*, seeks (1) payment of the Trustee's statutory fee of \$4,950.00 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred of \$96.49, and (2) payment of fees in the amount of \$5,555.00 and reimbursement of expenses in the amount of \$1,170.00 related to the Application. *See id.* at *Exhibit D*.

After payment for professionals and the Trustee, the balance of cash on hand for unsecured creditors is \$29,147.77. *See id.* This amount is sufficient to pay allowed unsecured claims a distribution of 100.00%. *See id.*

Pursuant to 11 U.S.C. § 330, the Court allows Z&H, on a final basis, fees in the amount of \$9,350.00 and expenses in the amount of \$1,170.00 and approves payment of the allowed fees in the amount of \$5,555.00 and expenses in the amount of \$1,170.00. The Court (1) approves the Report in conformance with 11 U.S.C. § 704(9), and (2) the Trustee is awarded their statutory fee in the amount of \$4,950.00 and reimbursement of the Trustee's expenses in the amount of \$96.49.

The Trustee is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Jolie I Hiskett

Represented By
Kenneth H J Henjum

Trustee(s):

Jeremy W. Faith (TR)

Represented By
Nancy H Zamora

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-11443 Jose Alberto Garcia

Chapter 7

#23.00 Hearing re: [35] Objection to debtor's claim of exemptions

Docket 35

***** VACATED *** REASON: Hearing continued to 12/09/25 at 1:00 p.m.
per order entered 7/01/25**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Alberto Garcia

Represented By
Mark E Brenner

Trustee(s):

Jerry Namba (TR)

Represented By
William C Beall

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10245 Sandra Michelle Studner

Chapter 7

#24.00 Hearing re: [12] Ex parte application for entry of an order directing the debtor to (I) produce documents in response to rule 2004 requests; and (II) sit for a rule 2004 examination

Docket 12

Tentative Ruling:

July 8, 2025

Appearances required.

Background

On February 25, 2025, Sandra Michelle Studner (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*.

On May 9, 2025, Marvin Drabinsky & Associates ("MD&A") filed that *Ex Parte Application for Entry of An Order Directing the Debtor to (I) Produce Documents in Response to Rule 2004 Requests and (II) Sit For a Rule 2004 Examination* (the "Application"). *See* Docket No. 12. Through the Application, MD&A sought an order, pursuant to Fed. R. Bankr. P. 2004, compelling the Debtor to provide certain documents to MD&A and to appear for an oral examination. *See id.* The Application was served on the Chapter 7 Trustee, counsel to the Debtor, a creditor of the Debtor, and the Office of the United States Trustee. *See id.* at p. 43, *Proof of Service of Document*. On May 14, 2025, MD&A filed that *Notice of Motion for Order Without a Hearing* (the "Notice"), notifying the same parties served with the Application of the Application. *See* Docket No. 16. On May 22, 2025, the Court entered that *Order Setting Ex Parte Application for Entry of an Order Directing the Debtor to (I) Produce Documents in Response to Rule 2004 Requests and (II) Sit For a Rule 2004 Examination*, setting the Application for hearing. *See* Docket No. 17.

On May 28, 2025, MD&A filed *Plaintiff Marvin Drabinsky & Associates Complaint Objecting to Dischargeability of Debt* (the "Complaint"). *See* Docket No. 22. The Complaint seeks a determination that MD&A's claim against the Debtor is

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Sandra Michelle Studner

Chapter 7

nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A). *See id.*

Analysis

Pursuant to this Court's Local Rule 2004-1(c), a motion under Fed. R. Bankr. P. 2004 "must be served on the debtor, debtor's attorney (if any), the trustee (if any), the United States trustee, and the entity to be examined."

Here the Motion was not served on the Debtor as required by this Court's Local Rule 2004-1(c), and so the Motion fails for that reason.

Pursuant to this Court's Local Rule 2004-1(b), a motion under Fed. R. Bankr. P. 2004 "must also explain why the examination cannot proceed under FRBP 7030 or 9014."

Here, with the filing of the Complaint, it is not clear to the Court whether the information sought through the Application may now be obtained through Fed. R. Bankr. P. 7030. Even if the Debtor had been served, the Court would want to hear from MD&A about the impact of the filing of the Complaint on the Application, given this Court's Local Rule 2004-1(b).

Conclusion

The Application is denied for lack of proper service, and because the Complaint has since been filed. MD&A is to lodge a conforming order within 7 days.

Party Information

Debtor(s):

Sandra Michelle Studner

Represented By
Jeremy Faith

Movant(s):

Marvin Drabinsky & Associates

Represented By
Leslie Schwaebe Akins

Trustee(s):

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:22-10978 Diego Ramirez

Chapter 7

#25.00 CONT'D (Status Conference) Hearing re: [33] Chapter 7 Trustee's objection to debtor's claimed homestead exemption and claimed exemption of unknown value

fr. 6-27-23, 7-25-23, 8-22-23, 9-26-23, 10-24-23, 11-21-23,
1-23-24, 3-5-24, 5-7-24, 6-18-24, 7-23-24, 9-10-24, 10-8-24,
12-3-24, 2-25-25, 4-8-25,

Docket 33

Tentative Ruling:

July 8, 2025

Appearances required.

April 8, 2025

Appearances required.

February 25, 2025

Appearances required.

December 3, 2024

Appearances required.

October 8, 2024

Appearances required.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... **Diego Ramirez**

Chapter 7

September 10, 2024

Appearances required.

July 23, 2024

Appearances required.

Nothing has been filed since the Court entered that *Order Approving Stipulation to Continue Hearing and Extend Deadlines*. See Docket No. 101.

June 18, 2024

Appearances required.

May 7, 2024

Appearances required.

It is the Court's understanding that this matter has been resolved. See Docket No. 96, *Fourth Stipulation to Continue Hearing and Extend Deadlines*, p. 1, lines 23-26. Is the objection withdrawn?

March 5, 2024

Appearances required.

It is unclear to the Court whether the Trustee's *Objection to Exemption* remains given the amendment to *Schedule C*, and, if so, how the amendment to *Schedule C* affects the timing of the Court hearing the Objection.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Diego Ramirez

Chapter 7

January 23, 2024

Appearances waived.

On December 7, 2022, Diego Ramirez (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the U.S. Code. *See* Docket No. 1. On May 2, 2023, Ramirez filed an amended *Schedule C: The Property You Claim as Exempt* (the "Schedule"). *See* Docket No. 27. The Schedule lists a property described as 1821 Coronado Pl, Oxnard, CA 93030 (the "Property"), and with Ramirez claiming an exemption in the Property in the amount of \$275,492.00 pursuant to Cal. Code of Civ. P. 704.730. *Id.* at p. 1. The Schedule further lists an asset described as "Affordable Collision Inc.," having an unknown value, and as being exempt in an unknown amount pursuant to Cal. Code of Civ. P. 704.060(a)(2). *Id.* at p. 3.

Pending before the Court is the *Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption and Claimed Exemption of Unknown Value* (the "Objection") filed by Sandra K. McBeth, the Chapter 7 Trustee (the "Trustee") on May 31, 2023. *See* Docket No. 33.

The Debtor amended his schedules and filed *Debtor's Response to Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption and Claimed Exemption of Unknown Value* (the "Response"). *See* Docket Nos. 81 and 82, respectively. Through the amended *Schedule A/B: Property*, the Debtor now asserts an "[e]quitable interest" in the Property. *See* Docket No. 81, *Schedule A/B: Property*, p. 1. Through the amended *Schedule C: The Property You Claim as Exempt*, the Debtor now claims a \$280,225 homestead exemption in the Property pursuant to Cal. Code Civ. P. § 704.730, eliminates the previous claim of exemption over Affordable Collision Inc., and claims an exemption in the amount of \$9,525.00 related to "Debtor's Equipment and Tools Used in Debtor's Corporate business but still under Debtor ownership" pursuant to Cal. Code Civ. P. § 704.060. *See* Docket No. 81, *Schedule C: The Property You Claim as Exempt*, pp. 1-4.

The Court previously continued the matter from November 21, 2023, to January 23, 2024, at 2:00 p.m. pursuant to that *Second Stipulation to Continue Hearing and Extend Deadlines* (the "Stipulation"). *See* Docket No. 88. Pursuant to the Stipulation,

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

the deadline to object to the Debtor's newly filed exemptions (Docket No. 81) is extended from December 4, 2023, to and including February 5, 2024.

The Court will continue the hearing on the Objection to February 20, 2024, to allow the deadline for the Trustee to augment the Objection based on the Debtor's amended exemptions and property assertions.

November 21, 2023

Appearances waived.

This matter is continued to January 23, 2024, at 2:00 p.m. pursuant to that *Second Stipulation to Continue Hearing and Extend Deadlines*. See Docket No. 88.

October 24, 2023

Appearances required.

Since the last hearing on the Objection, Ramirez amended his schedules and filed *Debtor's Response to Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption and Claimed Exemption of Unknown Value* (the "Response"). See Docket Nos. 81 and 82, respectively. Through the amended *Schedule A/B: Property*, Ramirez now claims an "[e]quitable interest" in the Property. See Docket No. 81, *Schedule A/B: Property*, p. 1. Through the amended *Schedule C: The Property You Claim as Exempt*, Ramirez now claims a \$280,225 homestead exemption in the Property pursuant to Cal. Code Civ. P. § 704.730, eliminates the previous claim of exemption over Affordable Collision Inc., and claims an exemption in the amount of \$9,525.00 related to "Debtor's Equipment and Tools Used in Debtor's Corporate business but still under Debtor ownership" pursuant to Cal. Code Civ. P. § 704.060. See Docket No. 81, *Schedule C: The Property You Claim as Exempt*, pp. 1-4.

Affordable Collision, Inc. and Tools of Trade

With the amended *Schedule C*, Ramirez has eliminated the request to exempt any interest in Affordable Collision, Inc. pursuant to Cal. Code of Civ. P. § 704.060(a)(2)

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

"as a tool of his trade" in an unknown value and amount. The amended *Schedule C* further eliminated any exemption under Cal. Code of Civ. P. § 704.060(a)(2). As noted in the Objection, "assuming [Ramirez] can exempt certain tools of his trade under CCP Section 704.060(a)(1), it is limited to the sum of \$9525." See Docket No. 33, p. 5, lines 21-22. Ramirez now claims an exemption in a "[f]rame machine, 1 two-post lift, air compresson [sic], ladder, hand tools, [and a] tool box" in the amount of \$9,525.00 under Cal. Code of Civ. P. § 704.060. See Docket No. 81, *Schedule C: The Property You Claim as Exempt*, p. 4.

The Court will inquire with the Trustee as to whether the amended *Schedule C* resolves those portions of the Objection that relate to the Debtor's tools of trade and Affordable Collision, Inc.

Homestead

As noted *supra*, Ramirez asserts a homestead exemption in the Property in the amount of \$280,225 pursuant to Cal. Code Civ. P. § 704.730. Diego R. Gomez Ramirez (the "Son") that appears on the *Grant Deed* for the Property recorded on November 22, 2016 is Ramirez's adult son, asserts Ramirez. See Docket No. 82, p. 2, lines 25-26. As of November 22, 2016, title in the Property was held in the Son's and Tonantzin N. Ramirez's (the "Wife") names. See Docket No. 82, *Exhibit B*. That *Interspousal Transfer Deed* was recorded on November 22, 2016, which provided that Ramirez granted to the Wife the Property "as her sole and separate property." See *id.* at *Exhibit D*. Ramirez asserts that what the *Grant Deed* and *Interspousal Transfer Deed* provide for was not the intent of he, the Wife and the Son, however. Title to the Property was only taken in the Son's and the Wife's name, and without Ramirez's name, because of Ramirez's "poor credit rating and inability to qualify as a borrower" under the guidelines of the lender for the Property. See Docket No. 82, pp. 2-3. Despite the *Deed of Trust* and the *Interspousal Transfer Deed*, Ramirez asserts that "at no time did [Ramirez] or [the Wife] have the intention that Debtor was giving up his equitable interest in the Property." See *id.* at p. 3, lines 17-18. Ramirez asserts that he has always resided in the Property since 2016, and that his and the Wife's community property was used for the down payment for the Property, all mortgage payments on the Property, all tax payments on the Property, and to maintain the Property from November 2016 through the Petition Date. See *id.* at lines 22-26. Ramirez claims that "[a]t no time did [Ramirez's] son contribute to the Property mortgage payments

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Diego Ramirez

Chapter 7

or any other related Property expenses." *See id.* at lines 26-27.

The Son was removed from the title to the Property on August 17, 2017, when that *Grant Deed* was recorded transferring the Property to the Wife alone as "her sole and separate property." *See* Docket No. 82, *Exhibit F*.

Finally, on May 11, 2020, the Wife transferred title to the Property through that *Quitclaim Deed* to Diego R. Gomez Ramirez and the Wife as trustees of the Ramirez Family Trust dated March 24, 2017 (the "Trust"). *See* Docket No. 82, *Exhibit H*. Ramirez asserts an interest in the Trust.

The parties do not appear to dispute that Ramirez has an interest in the Property. The sole dispute surrounds when Ramirez's interest in the Property was obtained. The Trustee asserts that Ramirez's interest in the Property was obtained in 2020 when the *Quitclaim Deed* was recorded, and so 11 U.S.C. § 522(p)(1) limits the homestead exemption that Ramirez may claim in the Property. Ramirez asserts that his interest in the Property relates back to November 2016 when community property was used to purchase the Property, and based on his and the Wife's intention regarding his interest in the Property at the time. Ramirez argues that a resulting trust is implied in his favor dating back to November 2016 under California law.

"Whether the Debtor held the property in trust is governed by state law." *In re Sale Guar. Corp.*, 220 B.R. 660, 664 (9th Cir. BAP 1998)(citing *In re Northern Coin & Currency, Ltd.*, 767 F.2d 1573, 1575 (9th Cir. 1985)).

Under California law:

[a] resulting trust arises by operation of law from a transfer of property under circumstances showing that the transferee was not intended to take the beneficial interest...Ordinarily a resulting trust arises in favor of the payor of the purchase price of the property where the purchase price, or a part thereof, is paid by one person and the title is taken in the name of another. The trust arises because it is the natural presumption in such a case that it was their intention that the ostensible purchaser should acquire and hold the property for the one with whose means it was acquired.

In re Cecconi, 366 B.R. 83, 112 (Bankr. N.D. Cal. 2007)(citing *Lloyds Bank Cal. V.*

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Diego Ramirez

Chapter 7

Wells Fargo Bank, 187 Cal.App.3d 1038, 1042-43 (1986)).

"Under California law, 'one who claims a resulting trust in property has the burden of proving the facts establishing his beneficial interest by clear and convincing evidence.'" *Id.* at 116 (citing *Gomez v. Cecena*, 15 Cal.2s 363, 366-67 (1940)). As evidence in support of Ramirez's resulting trust in the Property from November 2016 through May 2020, Ramirez offers his own declaration and that of the Wife. *See* Docket No. 82, *Declaration of Diego Ramirez* and *Declaration of Tonantzin N. Ramirez*. There is no declaration offered from the Son.

The Court will hear from the Trustee at the hearing.

July 25, 2023

Appearances required.

Since the prior hearing on *Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption of Unknown Value* (the "Objection"), Diego Ramirez (the "Debtor") has filed that *Ex Parte Motion for Enlargement of Time to File Response to Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption and Claimed Exemption of Unknown Value* (the "Motion for Extension"), and Andre Verdun, counsel to the Debtor, has filed that *Revised Declaration of Andre L. Verdun in Response to Order to Show Cause* (the "Declaration"). *See* Docket Nos. 48 and 54, respectively. To date, there has been no substantive response filed to the Objection by the Debtor, and that is despite the nearly two (2) months that have lapsed since the Objection was filed.

The Court continued the hearing on the Objection to July 25, 2023. Further, the Court on June 28, 2023 issued its *Order to Show Cause Why the Court Should Not Order Sanctions Against Andre L. Verdum, Esq. and/or Refer Andre L. Verdum, Esq. to the Court's Disciplinary Panel* (the "OSC"). *See* Docket No. 43. The Declaration was filed in response to the OSC.

Motion for Extension

Procedurally, under this Court's Local Rules, the Motion for Extension is lacking. Pursuant to this Court's Local Rule 9013-1(e), "[e]very document filed pursuant to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

this rule must be accompanied by a proof of service, completed in compliance with LBR 9013-3..." This Court's Local Rule 9013-3(b) provides that "[p]roof of service must be made by executing court-mandated form F_9013-3.1.PROOF.SERVICE, providing the exact title of the document being served, the methods of service for each person or entity served, the date upon which the proof of service was executed, and the signature of the person who performed the service and identified appropriate persons who will be served via NEF by the court's CM/ECF electronic transmission program." Pursuant to this Court's Local Rule 9013-3(d), "[w]hen preparing a proof of service, it must be explicitly indicated how each person who is listed on the proof of service is related to the case or adversary proceeding." Here, attached to the Motion for Extension is a document termed "Certificate of Service," which is not on the Court's mandatory form, does not list the date the Motion for Extension was served, does not provide the relation of those parties served to the instant case, and is confusing as to whether the Motion for Extension was served via NEF or via U.S. mail. The Motion was filed without a proof of service that conforms with this Court's Local Rules regarding the requirements of proofs of service.

Second, the Motion for Extension provides no basis for this Court to rule on the Motion *ex parte*. What is the basis for this Court to rule on a motion extending the time for the Debtor to respond to the Objection, after the response deadline has passed, without any opportunity for the Chapter 7 Trustee or any other party-in-interest to respond to such a request?

Third, Fed. R. Bankr. P. 9006(b) provides that "when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion" "on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect." The Supreme Court has held that the determination by the Court as to whether neglect is excusable is "at bottom an equitable one, taking account of all relevant circumstances surrounding the party's omission." *See In re Tronox Inc.*, 626 B.R. 688, 724 (Bankr. S.D.N.Y. 2021) (citing *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship*, 507, U.S. 380, 395 (1993)). "The relevant factors include: (1) the danger of prejudice; (2) the length of delay and its potential impact on proceedings; (3) the reason for the delay, including whether it was in the reasonable control of the movant; and (4) whether the movant

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

acted in good faith." *Id.* The Supreme Court has held "that parties are responsible for the conduct of their attorneys," and that "clients cannot obtain relief from deadlines that their lawyers missed unless the lawyers' own neglect was excusable." *Id.* The Supreme Court has given little weight "to the fact that counsel was allegedly experiencing upheaval in his law practice." *Id.*

Here, a response to the Objection was required within 14 days prior to the hearing date on the Objection. *See* Docket No. 34, p. 2. Pursuant to this Court's Local Rule ("LBR") 9013-1(f), ". . . each interested party opposing or responding to the motion must file and serve the response (Response) on the moving party and the United States trustee not later than 14 days before the date designated for hearing." No response has been filed to the Objection.

Prejudice

If the Court allows a late response to the Objection, creditors of the estate would be prejudiced in that it is possible that property that has been claimed by the Trustee as being otherwise non-exempt, could become exempt. The prejudice to creditors weighs in favor of denying the Motion for Extension.

Length of Delay

As noted *supra*, the Objection was filed nearly two (2) months ago, and, as of today, there has been no response filed. This is true even though it appears that the Debtor knows what it seeks to argue in opposition to the Objection. *See* Docket No. 54, pp. 4-5. The length of delay here is substantial enough to weigh in favor of denying the Motion for Extension.

Reason for Delay

The reason for the delay appears to be largely attributable to the Debtor's counsel's failure to act. Counsel has not testified that he was unaware of the deadline, just that he was unable to obtain an extension of the opposition deadline from the Trustee. There was no attempt to seek an extension of the response time to the Objection by filing a request with the Court prior to the expiration of that deadline. Counsel to the Debtor states that he was searching for replacement counsel due to the complexity of the Objection, although no such counsel was found in time to file an opposition to the Objection. Excuses regarding counsel to the Debtor's trial schedule and illness are

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

provided, but counsel's busy trial schedule is not an excuse that the Court accepts as constituting excusable neglect, and counsel's illness was just 2-3 days. *See* Docket No. 54, p. 4. Above all, counsel admits that "[i]n retrospect, not filing a document with the court before to notify the Court that I would like additional time to raise this new argument was an *inexcusable* error..." *See id.* at p. 5, lines 3-6 (emphasis added). The Debtor's reasons provided for the delay in responding to the Objection are insufficient to prompt this Court to enlarge the time to oppose the Objection after the lapsing of the response time. This is especially true in light of the failure to file any written response even after the initial hearing on the Objection.

Good Faith

The Court has no reason to believe that bad faith is present. This largely seems to be the missteps of counsel to the Debtor at every turn in this case.

In weighing the totality of the circumstances, guided by the above factors, and taking into account the Debtor's counsel's own admission regarding the absence of excusable neglect, at least as to his actions, the Court does not find excusable neglect.

The Motion to Extend is denied on procedural and substantive grounds as outlined *supra*.

The Objection

To date, there has been no written opposition to the Objection. As provided in this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." For the reasons provided in the Court's tentative ruling on the Objection relating to the June 27, 2023 hearing, which the Court now adopts as its final ruling, the Court sustains the Objection.

The Trustee is to upload orders within seven (7) days denying the Motion to Extend, and sustaining the Objection.

June 27, 2023

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

**CONT... Diego Ramirez
Appearances waived.**

Chapter 7

On December 7, 2022, Diego Ramirez ("Ramirez") filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the U.S. Code. *See* Docket No. 1. On May 2, 2023, Ramirez filed an amended *Schedule C* (the "Schedule"). *See* Docket No. 27. The Schedule lists a property described as 1821 Coronado Pl, Oxnard, CA 93030 (the "Property"), and with Ramirez claiming an exemption in the Property in the amount of \$275,492.00 pursuant to Cal. Code of Civ. P. 704.730. *Id.* at p. 1. The Schedule further lists an asset described as "Affordable Collision Inc.," having an unknown value, and as being exempt in an unknown amount pursuant to Cal. Code of Civ. P. 704.060(a)(2). *Id.* at p. 3.

On May 31, 2023, Sandra K. McBeth, the Chapter 7 Trustee (the "Trustee") filed *Chapter 7 Trustee's Objection to Debtor's Claimed Homestead Exemption and Claimed Exemption of Unknown Value* (the "Objection"). *See* Docket No. 33. The Objection was served on the date of its filing on Ramirez via U.S. Mail, and on counsel of record to Ramirez via NEF. *See id.* at *Proof of Service of Document*. On May 31, 2023, the Trustee also filed that Notice of the Objection (the "Notice"), informing Ramirez and counsel that pursuant to this Court's Local Rule 9013-1, any opposition to the Objection must be filed and served no less than fourteen (14) days prior to the hearing on the Objection, or June 13, 2023. *See* Docket No. 34. As with the Objection, the Notice was served on Ramirez on May 31, 2023 via U.S. Mail, and on counsel of record to Ramirez via NEF. *See id.* at *Proof of Service of Document*.

Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." Here, the Debtor has not filed a response to the Objection. The Court takes the default of the Debtor.

Analysis

Pursuant to 11 U.S.C. § 522(l), "[t]he debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section ... Unless a party in interest objects, the property claimed as exempt on such list is exempt."

11 U.S.C. § 522(p)

Pursuant to 11 U.S.C. § 522(p)(1)(A), "as a result of electing under subsection (b)(3)

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

(D) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate \$189,050 in value in real or personal property that the debtor or dependent of the debtor claims as a homestead."

The Objection points to a *Quitclaim Deed* related to the Property, wherein it provides that on September 25, 2020, Tonantzin Ramirez granted the Property, as her sole and separate property, to Ramirez and Tonantzin N. Ramirez as trustees of the Ramirez Family Trust dated March 24, 2017. *See* Docket No. 33, *Exhibit B*. This transfer, the Trustee argues, is an acquisition by Ramirez of an interest in the Property within 1,215 days of Ramirez filing for bankruptcy. *See* Docket No. 33, p. 4, lines 1-8. Ramirez claims that he is the "lifetime beneficiary" of the Property in his amended *Schedule A/B*. *See* Docket No. 25, *Schedule A/B: Property*. If the Property was Tonantzin Ramirez's separate property until September 2020, and absent any argument from Ramirez otherwise, it appears to the Court that Ramirez's interest in the property was acquired on September 25, 2020, 803 days prior to the Petition Date. Therefore, the Objection is sustained regarding the Property, and the homestead exemption is reduced to the extent the claimed exemption exceeds \$189,050.

C.C.P. § 704.060(a)(2)

Pursuant to Cal. Code of Civ. P. 704.060(a)(2), "[t]ools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial motor vehicle, one vessel, and other personal property are exempt to the extent that the aggregate equity therein does not exceed [] [\$8,725], if reasonably necessary to and actually used by the spouse of the judgment debtor in the exercise of the trade, business, or profession by which the spouse earns a livelihood."

The Trustee argues that "Section 704.060(a)(2) limits the exemption to the sum of \$8725 for the *spouse* of the Debtor, not the Debtor himself." *See* Docket No. 33, p. 5, lines 14-15. This, however, is an incorrect reading of the law. The exemption is in favor of a judgment debtor, and for tools that the judgment debtor's spouse uses in their trade, business, or profession. The Trustee further argues that "assuming Debtor can exempt certain tools of his trade under CCP Section 704.060(a)(1), it is limited to

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Diego Ramirez

Chapter 7

the sum of \$9525," and "Debtor has already claimed the tools of the trade exemption for several other items totaling \$5450 per amended C." *Id.* at lines 21-24. Again, this conflates the tools of trade of Ramirez for the tools of trade of his spouse. California law differentiates the two to the extent the professions of the spouses are different. Third, the Trustee argues that the spouse of Ramirez "works full time as a dental hygienist," and so there is no evidence that the spouse of Ramirez participates in the operation of Affordable Collision, Inc. *Id.* at lines 15-20. The Court here agrees with the Trustee. Cal Code of Civ. P. 704.060(a)(2) deals with "personal property," and Affordable Collision, Inc. appears to be an interest in a corporation. An interest in a corporation is not personal property.

The Court sustains the Objection to the exemption claimed by Ramirez in Affordable Collision, Inc.

The Trustee is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Diego Ramirez

Represented By
Randall V Sutter

Movant(s):

Sandra McBeth (TR)

Represented By
Reed H Olmstead

Trustee(s):

Sandra McBeth (TR)

Represented By
Reed H Olmstead

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10712 Gil Contreras Zuniga

Chapter 7

#26.00 Order to show cause re: Dismissal

Docket 6

***** VACATED *** REASON: Credit Counseling Requirement met.
Updated Certificate filed at Docket #7 on 5/28/25.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gil Contreras Zuniga

Represented By
Todd J Mannis

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10101 Carlos Alejandro Martinez and Sonia C Martinez

Chapter 13

#27.00 CONT'D Hearing re: Objection to claim #7 by claimant
Franchise Tax Board in the amount of \$7,829.56

fr. 4-22-25,

Docket 14

Tentative Ruling:

July 8, 2025

Appearances required.

Since April 22, 2025, the FTB has filed an amended proof of claim, reducing the Claim to \$6,872.17. *See* Claim No. 7-2. The Court finds nothing more filed from the Debtor as to the Claim. The Court will inquire whether the Debtor continues to dispute the Claim, and, if so, whether the FTB has reviewed the Debtor's claimed amended tax filings.

April 22, 2025

Appearances required.

Background

On January 30, 2025, Carlos Alejandro and Sonia C. Martinez filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*.

On February 24, 2025, the Franchise Tax Board (the "FTB") filed proof of claim 7 in the Debtors' bankruptcy case in the amount of \$7,829.56 (the "Claim"). *See* Claim No. 7. The Claim relates to taxes owed for tax years 2022 and 2023, plus penalties, interest and costs. *See id.* at p. 4.

On March 18, 2025, the Debtors filed that *Notice of Objection to Claim* (the "Objection"), objecting to the Claim on the basis that an amended tax return filed on

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Carlos Alejandro Martinez and Sonia C Martinez Chapter 13

March 3, 2025, results in a tax refund to the Debtors, and not any amounts owed to the FTB. *See* Docket No. 14.

On April 8, 2025, the FTB filed *Franchise Tax Board's Response and Opposition to Debtors' Objection to Claim No. 7* (the "Response"). *See* Docket No. 16. The FTB, through the Response, argues that the Objection should be overruled in that other than submitting an amended tax return, the Debtors have not carried their burden to rebut the presumptive validity of the Claim. *See id.*

Analysis

"A claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest [] objects." *See* 11 U.S.C. § 501(a). "There is an evidentiary presumption that a correctly prepared proof of claim is valid as to liability and amount." *In re Garner*, 246 B.R. 617, 620 (9th Cir. BAP 2000). "A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." *See* Fed. R. Bankr. P. 3001(f). "The presumption treating the proof of claim as prima facie evidence of validity and amount operates to create a mere rebuttable presumption." *In re Garner*, 246 B.R. at 622. "The mechanics of what it takes to rebut the presumption are driven by the nature of the presumption as 'prima facie' evidence of the claim's validity." *Id.* at 623. The proof of claim is more than 'some' evidence; it is, unless rebutted, 'prima facie' evidence." *Id.* "One rebuts evidence with counter-evidence." *Id.*

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Section 502(b) of the Bankruptcy Code enumerates an exhaustive list of reasons for sustaining an objection to a proof of claim. *See* 11 U.S.C. § 502(b). Pursuant to 11 U.S.C. § 502(b)(1), upon the filing of an objection to a claim, "the court, after notice and a hearing, shall determine the amount of such claim [] and shall allow such claim in such amount, except to the extent that such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Here, the Claim has been filed by the FTB, which includes amounts owed related to certain tax periods. The Debtors, through the Objection, include tax returns recently filed, with nothing more. At some point the FTB will receive the tax returns if they were indeed filed, and either correct the Claim, or stand firm. At this juncture, the

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Carlos Alejandro Martinez and Sonia C Martinez

Chapter 13

Court is inclined to continue the Objection to allow the FTB time to review any tax returns submitted by the Debtors.

Party Information

Debtor(s):

Carlos Alejandro Martinez

Represented By
Shawn S White

Joint Debtor(s):

Sonia C Martinez

Represented By
Shawn S White

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10107 Alicia Realica Alinaya

Chapter 13

#28.00 CONT'D Hearing re: [30] Objection to Claim No. 8 filed by
Steven Walczak & Samantha Walczak

fr. 6-17-25,

Docket 30

Tentative Ruling:

July 8, 2025

Appearances required.

Assuming the Court grants that *Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum)* (Docket No. 34), the Court is inclined to continue the hearing on the Claim Objection to allow the state court to adjudicate the underlying bases for Claimants' Claim. The Court is inclined, again, assuming its grants the lift stay motion, to continue the hearing on the Claim Objection to September 9, 2025, at 1:00 p.m. If the state court's final ruling materializes prior to the continued hearing, the Court will hear a motion to advance the continued hearing on the Claim Objection.

June 17, 2025

Appearances required.

Background

On January 30, 2025, Alicia Realica Alinaya (the "Debtor") filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*.

The Debtor listed Steven and Samantha Walczak (the "Claimants") as unsecured creditors having a disputed claim of \$0.00 based upon the State Court Lawsuit, *infra*.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Alicia Realica Alinaya

Chapter 13

See Docket No. 11, Schedule E/F: Creditors Who Have Unsecured Claims, p. 5.

On April 10, 2025, the Claimants filed that Proof of Claim No. 8 for \$876,318.34 (the "Claim") based upon a lawsuit in the Superior Court of California for the County of Ventura (Case No.: 56-2022-00563119-CU-OR-VTA) for (1) breach of CC&Rs, (2) nuisance, and (3) declaratory relief (the "State Court Lawsuit"). *See* Proof of Claim No. 8; and Docket No 37, *Exhibit 1*, pp. 6-18. Attached to the Claim is a motion by the Claimants in the State Court Lawsuit seeking a default judgment against the Debtor. *See* Proof of Claim No. 8, pp. 5-24.

Before the Court is that *Disallow Claim: Objection to Claim No. 8 Filed by Steven Walczak & Samantha Walczak & Samantha Walczak* (the "Claim Objection") filed by the Debtor on May 14, 2025, seeking to disallow the Claim entirely (1) as having no supporting documentation other than an application for default, (2) because the Claim – to the extent it is based upon the ongoing State Court Lawsuit – is contingent, unliquidated, disputed and thus not enforceable against the Debtor and should be disallowed entirely, and (3) because no judgment or default ruling has been made in the State Court Lawsuit. *See* Docket No. 30, *Declaration of Debtor Alicia Realica Alinaya in Support of Objection to Claim*, p. 7, and *Exhibit B*, pp. 36-39.

On June 3, 2025, the Claimants filed that *Response in Opposition to Debtor's Objection to Proof of Claim of Steven Walczak and Samantha Walczak* in which the Claimants oppose the Claim Objection. *See* Docket No. 37.

Notice

Pursuant to this Court's Local Bankruptcy Rule ("LBR") 3007-1(b), a claim objection must be set for hearing on notice of not less than 30 days. *See* LBR 3007-1(b)(1). The claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules.

On May 14, 2025, the Debtor filed that *Notice of Motion for: Disallow Claim: Objection to Claim No. 8 Filed by Steven Walczak & Samantha Walczak* (the "Notice"). *See* Docket No. 31. On May 14, 2025, the Notice was filed and served via U.S. Mail on the Claimants at the address listed on both the Claim and on the creditor

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Alicia Realica Alinaya

Chapter 13

mailing matrix. *See id.* at pp. 2-4, *Proof of Service Document*; *see also* Claim No. 8-1.

In accordance with LBR 3007-1(b)(3)(A), "[a] response [to an objection] must be filed and served not later than 14 days prior to the date of hearing set forth in the notice..." Further, "[i]f a response is not timely filed and served, the court may grant the relief requested in the objection without further notice or hearing." *See* LBR 3007-1(b)(3)(B).

Notice of the Objection appears appropriate.

Analysis

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Section 502(b) of the Bankruptcy Code enumerates an exhaustive list of reasons for sustaining an objection to a proof of claim. *See* 11 U.S.C. § 502(b). Pursuant to 11 U.S.C. § 502(b)(1), upon the filing of an objection to a claim, "the court, after notice and a hearing, shall determine the amount of such claim [] and shall allow such claim in such amount, except to the extent that such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Federal Rules of Bankruptcy Procedure ("Rule") 3001 applies to proofs of claims. Rule 3001(a) requires the creditor to attach the supporting documents to the proof of claim. *See* Fed. R. Bankr. P. 3001(a). Under Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to "constitute prima facie evidence of the validity and amount of the claim." *See* Fed. R. Bankr. P. 3001(f).

"A duly executed proof of claim is prima facie evidence of the validity and amount of a claim. Rule 3001(f). The burden then switches to the objecting party to present evidence to overcome the prima facie case . . . *In Re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)." *In Re Murgillo*, 176 B.R. 524, 529 (9th Cir. BAP 1995).

"To defeat the claim, the objector must come forward with sufficient evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell v. Anchor Const. Specialists*,

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Alicia Realica Alinaya

Chapter 13

Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (internal citation omitted). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. The ultimate burden of persuasion remains at all times upon the claimant." *Id.* (internal citations omitted).

This Court's LBR 3007-1(c)(1) provides that "[a]n objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified." "A copy of the complete proof of claim, including attachments or exhibits, must be attached to the objection to claim, together with the objector's declaration stating that the copy of the claim attached is a true and complete copy of the proof of claim on file with the court..." LBR 3007-1(c)(2).

The Debtor's first argument in the Claim Objection is that the Claim does not comply with Rule 3001(c)(1). *See* Docket No. 30, p. 3, lines 21-25. The Claim, however, is not based on a writing, but rather tort.

The Debtor's second argument seems to expand on their first argument, stating that "absolutely no documentation, no information and no references supporting her claim or when what her claim applies to" accompanied the Claim. *See id.* at p. 4, lines 1-2. Yet, the default motion was attached to the Claim.

Lastly, the Debtor argues that the Claim is contingent and unliquidated. "The Bankruptcy Code does not define the terms contingent or unliquidated." *In re Audre, Inc.*, 202 B.R. 490, 492 (Bankr. S.D. Cal. 1996)(citing *In re Nicholes*, 184 B.R. 82, 88 (9th Cir. BAP 1995)). "It is generally settled that 'if all events giving rise to liability occurred prior to the filing of the bankruptcy petition', the claim is not contingent." *Id.* (internal citations omitted). What events arose, related to the Claim, post-petition?

"The term liquidated has also acquired a working definition through case law." *Id.* "[T]he question whether a debt is liquidated turns on whether it is subject to 'ready determination and precision in computation of the amount due.'" *Id.* "[D]ebts based on unlitigated tort and quantum meruit claims are generally unliquidated because

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

1:00 PM

CONT...

Alicia Realica Alinaya

Chapter 13

damages are not based on a fixed sum.'" *Id.* "[W]hether a debt is liquidated or not...does not depend strictly on whether the claim sounds in tort or in contract, but whether it is capable of ready computation." *Id.* at 493. It would seem to the Court that the Claim is unliquidated, but that fact alone appears easily remedied, as the State Court is primed to determine the amount of the State Court Lawsuit.

Party Information

Debtor(s):

Alicia Realica Alinaya

Represented By

Ronda Baldwin-Kennedy

Movant(s):

Alicia Realica Alinaya

Represented By

Ronda Baldwin-Kennedy

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10162 Hector L Colon and Marisela G Colon

Chapter 13

#29.00 CONT'D Hearing re: [18] Objection to claim #2 by claimant Wilmington Savings Fund Society in the amount of \$83,587.70

fr. 5-20-25,

Docket 18

Tentative Ruling:

May 20, 2025

Appearances required.

Background

On February 9, 2025, Hector L Colon and Marisela G Colon (the "Debtors") filed a voluntary petition under Chapter 13 of the U.S. Bankruptcy Code. *See* Docket No. 1.

On March 24, 2025, Wilmington Savings Fund Society, FSB, D/B/A Christiana Trust as Trustee for PNPMS Trust I (the "Claimant") filed *Proof of Claim No. 2-1* (the "Claim") in the amount of \$83,587.70 for "money loaned" on a secured home equity line of credit. *See* Claim No. 2-1.

Before the Court is *Notice of Objection to Claim* (the "Objection"), filed on April 18, 2025. *See* Docket No. 18. The Debtors assert that "[e]quitable tolling of interest during the period that lender wrongfully prevented borrowers from making timely payments" applies, and so \$26,105, the interest component of the Claim, should be disallowed. *See id.* Since 2012, the Debtors assert that the Claimant, or its assignor, "refused to accept payment from [the Debtors] saying that there was nothing for them to collect." *See id.* at p. 7, lines 1-4.

On May 6, 2025, the Claimant filed that *Opposition to Debtor's Objection to Proof of Claim No. 2 Filed by Wilmington Savings Fund Society et. al.* *See* Docket No. 22.

Notice and Service

Pursuant to this Court's Local Bankruptcy Rule ("LBR") 3007-1(b), a claim objection must be set for hearing on notice of not less than 30 days. *See* LBR 3007-1(b)(1). The

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

1:00 PM

CONT... Hector L Colon and Marisela G Colon

Chapter 13

claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules.

On April 18, 2025, that *Notice of Objection to Claim* was filed and served via U.S. Mail on the creditor mailing matrix. *See* Docket No. 19, pp. 2-5, *Proof of Service Document*.

In accordance with LBR 3007-1(b)(3)(A), "[a] response [to an objection] must be filed and served not later than 14 days prior to the date of hearing set forth in the notice..." Further, "[i]f a response is not timely filed and served, the court may grant the relief requested in the objection without further notice or hearing." *See* LBR 3007-1(b)(3)(B).

The Objection appears to have been properly served.

Analysis

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Section 502(b) of the Bankruptcy Code enumerates an exhaustive list of reasons for sustaining an objection to a proof of claim. *See* 11 U.S.C. § 502(b). Pursuant to 11 U.S.C. § 502(b)(1), upon the filing of an objection to a claim, "the court, after notice and a hearing, shall determine the amount of such claim [] and shall allow such claim in such amount, except to the extent that such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured."

Federal Rules of Bankruptcy Procedure ("Rule") 3001 applies to proofs of claims. Rule 3001(a) requires the creditor to attach the supporting documents to the proof of claim. *See* Fed. R. Bankr. P. 3001(a). Under Rule 3001(f) a proof of claim must be "executed and filed in accordance with these rules" in order to "constitute prima facie evidence of the validity and amount of the claim." *See* Fed. R. Bankr. P. 3001(f).

"A duly executed proof of claim is prima facie evidence of the validity and amount of a claim. Rule 3001(f). The burden then switches to the objecting party to present evidence to overcome the prima facie case . . . *In Re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)." *In Re Murgillo*, 176 B.R. 524, 529 (9th Cir. BAP 1995).

"To defeat the claim, the objector must come forward with sufficient evidence and

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Hector L Colon and Marisela G Colon

Chapter 13

show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell v. Anchor Const. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (internal citation omitted). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. The ultimate burden of persuasion remains at all times upon the claimant." *Id.* (internal citations omitted).

This Court's LBR 3007-1(c)(1) provides that "[a]n objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified." "A copy of the complete proof of claim, including attachments or exhibits, must be attached to the objection to claim, together with the objector's declaration stating that the copy of the claim attached is a true and complete copy of the proof of claim on file with the court..." LBR 3007-1(c)(2).

The starting point here is that the Objection does not comply with this Court's Local Rule 3007-1(c)(2) for lack of a declaration attesting to the attaching of a true and complete copy of the Claim to the Objection.

Second, the Objection contains not a single citation to case or statutory authority to support the relief requested. The Objection simply states that, "[i]n California, equitable tolling of interest occurs where a lender wrongfully prevents a borrower from making timely payments on a loan." *See* Docket No. 18, p. 7, lines 16-18. The Objection includes a declaration from Hector Colon wherein it is stated that "I attempted on multiple occasions to pay the second trust deed on my home and was told there was not payment due indicating the debt had been charged off by the lender." *See id.* at p. 8, lines 13-17.

What California law(s) does the Debtors refer to as to the nullification of interest on a loan where the lender rejects payments? Who did the Debtors attempt to make payments to, when, and how? A conclusory statement of a state law without any reference to a code section or case, and a one line explanation of payment attempts by

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... **Hector L Colon and Marisela G Colon**
the Debtors does not suffice to meet the Debtors' burden.

The Objection is overruled.

Chapter 13

Party Information

Debtor(s):

Hector L Colon

Represented By
James Studer

Joint Debtor(s):

Marisela G Colon

Represented By
James Studer

Trustee(s):

Elizabeth (ND) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10578 Underground Solutions LLC

Chapter 11

#30.00 Hearing re: [177] Final application of the Fox Law Corporation, Inc.
for compensation as counsel for debtor and for expenses

Docket 177

Tentative Ruling:

July 8, 2025

Appearances waived.

On May 23, 2024 (the "Petition Date"), Underground Solutions LLC (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1.

On July 11, 2024, the Court entered that *Order Granting Application For Authority to Employ Counsel For Debtor-In-Possession*, authorizing the Debtor to employ The Fox Law Corporation, Inc. ("Applicant") as general bankruptcy counsel. *See* Docket No. 49.

On November 27, 2024, Applicant filed that *First Interim Application of the Fox Law Corporation, Inc. for Compensation as Counsel for Debtor* (the "First Application"). *See* Docket No. 127. Through the First Application, Applicant sought allowance of fees in the amount of \$48,300.00 and reimbursement of expenses in the amount of \$2,551.82 for the period of May 23, 2024, to November 15, 2024. *See id.* at pp. 1-2.

On June 13, 2025, Applicant filed that *Final Application of the Fox Law Corporation, Inc. for Compensation as Counsel for Debtor and for Expenses* (the "Final Application"). *See* Docket No. 177. Through the Final Application, the Applicant seeks allowance, on a final basis, of fees in the amount of \$62,625.00 and reimbursement of expenses in the amount of \$4,274.41 for the period of May 23, 2024, to May 14, 2025, which includes amounts previously approved by the Court through the order granting the First Application. *See id.* at p. 7 ¶ 28.

On June 13, 2025, the *Notice of Hearing on Final Application of the Fox Law*

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Underground Solutions LLC

Chapter 11

Corporation, Inc. for Compensation as Counsel for Debtor (the "Notice") was served upon all parties-in-interest via Notice of Electronic Filing and U.S. mail, first class, postage prepaid. *See* Docket No. 178, *Proof of Service of Document*, pp. 3-8. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Final Application. The Court therefore takes the default of all non-responding parties served with the Notice.

Having reviewed the Final Application, the exhibits, and the declarations in support, the Court finds the time spent by Applicant appropriate, reasonable, and beneficial under the circumstances. Further, the Court has received no objection to the Final Application. The Court approves the Final Application. Applicant is allowed, on a final basis, fees in the amount of \$62,625.00 and reimbursement of expenses in the amount of \$4,274.41.

Applicant is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Underground Solutions LLC

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10693 Shaffiq Salim Rahim and Naseem Sayani

Chapter 11

#31.00 Hearing re: [120] First and final application for allowance of fees and costs for Shaw & Hanover, PC, as general counsel

Fees: \$61,510.00; Expenses: \$2,715.29

Docket 120

Tentative Ruling:

July 8, 2025

Appearances waived.

On June 20, 2024, Shaffiq Salim Rahim and Naseem Sayani (jointly, the "Debtors") filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1.

On August 9, 2024, the Court entered that *Order Authorizing Debtors and Debtors-in-Possession to Employ Shaw & Hanover, PC as General Counsel to the Bankruptcy Estate [Docket No 23]*, authorizing the Debtors to employ Shaw & Hanover, PC ("Applicant") as general bankruptcy counsel. *See* Docket No. 32.

On May 31, 2025, Applicant filed that *Notice of Hearing on Application for Payment of: Final Fees and/or Expenses [11 U.S.C. § 331 or § 330]* (the "Application"). *See* Docket No. 120. Through the Application, Applicant seeks allowance, on a final basis, of fees in the amount of \$61,510.00 and reimbursement of expenses in the amount of \$2,715.29 for the period of June 20, 2024, to May 30, 2025. *See id.* at pp. 2-3. The Application also seeks to draw on the \$10,781.00 pre-petition retainer held in trust by Applicant. *See id.* at p. 12.

On May 31, 2025, the Application was served upon all parties-in-interest via Notice of Electronic Filing and U.S. mail, first class, postage prepaid. *See id.*, *Proof of Service of Document*, pp. 16-20. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... **Shaffiq Salim Rahim and Naseem Sayani** **Chapter 11**

Application has timely filed an opposition. The Court therefore takes the default of all non-responding parties served with the Application.

Having reviewed the Application, the exhibits, and the declarations in support, the Court finds the time spent by Applicant appropriate, reasonable, and beneficial under the circumstances. Further, the Court has received no objection to the Application. The Court approves the Application. Applicant is allowed, on a final basis, fees in the amount of \$61,510.00 and reimbursement of expenses in the amount of \$2,715.29.

Applicant is to upload a conforming order within 7 days.

Party Information

Debtor(s):

Shaffiq Salim Rahim

Represented By
Summer M Shaw

Joint Debtor(s):

Naseem Sayani

Represented By
Summer M Shaw

Movant(s):

Shaffiq Salim Rahim

Represented By
Summer M Shaw

Naseem Sayani

Represented By
Summer M Shaw

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10005 VH Nutrition, LLC

Chapter 11

#32.00 Hearing re: [115] Application for payment of final fees and/or expenses (11 U.S.C. § 330) for Moriah Douglas Flahaut, subchapter V trustee

Fees: \$9,724.00; Expenses: \$0.00

Docket 115

Tentative Ruling:

July 8, 2025

Appearances waived.

Background

Before the Court is that *Application for Payment of Final Fees and/or Expenses (11 U.S.C. § 330)* (the "Application"), filed by M. Douglas Flahaut ("Applicant"), the duly appointed Subchapter V Trustee, for services provided to the bankruptcy estate of VH Nutrition, LLC (the "Debtor") for the time period of January 3, 2025, through May 31, 2025, requesting allowance, on a final basis, of fees in the amount of \$9,724.00 and expenses of \$0.00 (this includes "an estimated 1.5 additional hours for preparing this application as well as appearing at the hearing thereon"). See Docket No. 115.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(6), Applicant "shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of [] a hearing on any entity's request for compensation or reimbursement of expenses of the request exceeds \$1,000." This Court's Local Rule 2016-1(a)(2)(B) provides that "Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002."

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

Here, that *Notice of Hearing on Application for Payment of: Final Fees and/or Expenses [11 U.S.C. § 331 or § 330]* (the "Notice") was served on the entire mailing matrix on June 9, 2025. *See* Docket No. 120. There has been no opposition to the Application. The Court therefore takes the default of all non-responding parties served with the Notice.

11 U.S.C. § 330

Sections 330(a)(1)(A) and (B) of the Bankruptcy Code provide that the Court may award a professional person "reasonable compensation for actual, necessary services rendered by the [professional person], and "reimbursement for actual, necessary expenses." *See* 11 U.S.C. §§ 330(a)(1)(A) and (B). Section 330(a)(3) of the Bankruptcy Code provides that "[i]n determining the amount of reasonable compensation to be awarded to [a professional person], the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors..." *See* 11 U.S.C. § 330(a)(3). "A bankruptcy court also must examine the circumstances and the manner in which services are performed and the results achieved in order to arrive at a determination of a reasonable fee allowance. Such examination, in general, should include the following questions: First, were the services authorized? Second, were the services necessary or beneficial to the administration of the estate at the time they were rendered? Third, are the services adequately documented? Fourth, are the fees requested reasonable, taking into consideration the factors set forth in § 330(a)(3)." *In re Mednet*, 251 B.R. 103, 108 (9th Cir. BAP 2000)(internal citations omitted).

In the instant case, Applicant was appointed by the United States Trustee. *See* Docket No. 30. In reviewing the invoices attached to the Application, the Court finds, on a final basis, that the services performed by Applicant on behalf of the Debtor's estate were necessary and beneficial to the administration of the estate, were properly documented, and are reasonable considering the factors found in 11 U.S.C. § 330(a)(3). The Court approves the Application, on a final basis, pursuant to 11 U.S.C. § 330, allowing Applicant fees in the amount of \$9,724.00 and expenses of \$0.00.

Applicant is to upload a conforming order within 7 days.

Party Information

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

Debtor(s):

VH Nutrition, LLC

Represented By
William C Beall
Carissa N Horowitz
Ryan W Beall

Movant(s):

Moriah Douglas Flahaut (TR)

Pro Se

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10005 VH Nutrition, LLC

Chapter 11

#33.00 Hearing re: [117] Application for payment of final fees and/or expenses (11 U.S.C. § 330) for William C Beall, debtor's attorney

Fees: \$32,637.50; Expenses: \$1,271.65

Docket 117

Tentative Ruling:

July 8, 2025

Appearances not required if Applicant submits on the proposed ruling.

Background

On January 3, 2025, VH Nutrition, LLC (the "Debtor"), filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the U.S. Code. *See* Docket No. 1. The Debtor elected to proceed under Subchapter V. *See id.* On January 22, 2025, the Court entered that *Order on Application of Debtor and Debtor-in-Possession to Employ Beall & Burkhardt, APC* (the "Order") employing Beall & Burkhardt, APC ("Applicant") as general bankruptcy counsel to the Debtor. *See* Docket No. 48. Applicant maintained a pre-petition retainer in the amount of \$25,107 (the "Retainer"). *See* Docket No. 10, p. 3, lines 1-5, *Application of Debtor and Debtor-in-Possession to Employ Counsel*.

Before the Court is that *Application for Payment of Final Fees and/or Expenses (11 U.S.C. § 330)* (the "Application") filed by Applicant on June 9, 2025, seeking, on a final basis, allowance of fees in amount of \$32,637.50 and expenses in the amount of \$1,271.65 for the time between of January 3, 2025, through May 31, 2025. *See* Docket No. 117. After application of the Retainer, Applicant, through the Application, seeks payment of \$8,802.15. *See id.* at p. 16.

Notice

Notice

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

Pursuant to Fed. R. Bankr. P. 2002(a)(6), Applicant "shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of [] a hearing on any entity's request for compensation or reimbursement of expenses if the request exceeds \$1,000." This Court's Local Rule 2016-1(a)(2)(B) provides that "Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002."

Here, that *Notice of Hearing on Application for Payment of: Final Fees and/or Expenses [11 U.S.C. § 331 or § 330]* (the "Notice") was served on the entire mailing matrix on June 9, 2025. See Docket No. 119. Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Notice has timely filed an opposition to the Application. The Court therefore takes the default of all non-responding parties served with the Notice.

Analysis

Sections 330(a)(1)(A) and (B) of the Bankruptcy Code provide that the Court may award a professional person "reasonable compensation for actual, necessary services rendered by the [professional person], and "reimbursement for actual, necessary expenses." See 11 U.S.C. §§ 330(a)(1)(A) and (B). Section 330(a)(3) of the Bankruptcy Code provides that "[i]n determining the amount of reasonable compensation to be awarded to [a professional person], the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors...". See 11 U.S.C. § 330(a)(3). "A bankruptcy court also must examine the circumstances and the manner in which services are performed and the results achieved in order to arrive at a determination of a reasonable fee allowance. Such examination, in general, should include the following questions: First, were the services authorized? Second, were the services necessary or beneficial to the administration of the estate at the time they were rendered? Third, are the services adequately documented? Fourth, are the fees requested reasonable, taking into consideration the factors set forth in § 330(a)(3)." *In re Mednet*, 251 B.R. 103, 108 (9th Cir. BAP 2000)(internal citations omitted).

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

In the present case, Applicant's employment by the Debtor as its general insolvency counsel was approved through the Order. *See* Docket No. 48. In reviewing the invoices attached to the Application, the Court finds, on a final basis, that most of the services performed by Applicant on behalf of the Debtor were necessary and beneficial to the administration of the estate, were properly documented, and are reasonable considering the factors found in 11 U.S.C. § 330(a)(3). The Court pauses here to note that Applicant seeks payment of \$1,000 for 2.5 hours of work at \$400 related to "[s]ervice of first day motion." *See* Docket No. 117, p. 9. Service of pleadings is ministerial in nature, and the Court does not generally approve of fees related to attorney time to perform such tasks. The Court approves the Application in part, on a final basis, pursuant to 11 U.S.C. § 330, allowing Applicant fees in the amount of \$31,637.50 and expenses in the amount of \$1,271.65. After application of the Retainer, the Debtor is responsible for payment Application \$7,802.15 in accordance with the confirmed plan of reorganization.

Conclusion

The Court approves the Application in part. On a final basis, Applicant is allowed, pursuant to 11 U.S.C. § 330, fees in the amount of \$31,637.50 and expenses of \$1,271.65, which, after application of the Retainer, leaves \$7,802.15 remaining to be paid, and which amount is to be paid pursuant to the Debtor's plan of reorganization.

Applicant is to upload a conforming order within 7 days.

Party Information

Debtor(s):

VH Nutrition, LLC

Represented By
William C Beall
Carissa N Horowitz
Ryan W Beall

Movant(s):

VH Nutrition, LLC

Represented By
William C Beall
Carissa N Horowitz

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room

201

1:00 PM

CONT...

VH Nutrition, LLC

Ryan W Beall

Chapter 11

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10005 VH Nutrition, LLC

Chapter 11

#34.00 Hearing re: [118] Application for payment of final fees and/or expenses (11 U.S.C. § 330) for Costello Accounting and Tax, LLC, accountant

Fees: \$6,500.00; Expenses: \$0.00

Docket 118

Tentative Ruling:

July 8, 2025

Appearances waived.

Background

Before the Court is that *Application for Payment of Final Fees and/or Expenses (11 U.S.C. § 330)* (the "Application"), filed by Costello Accounting & Tax, LLC ("Applicant"), the accountant to VH Nutrition, LLC (the "Debtor") for the time period of January 29, 2025, through May 31, 2025, requesting allowance, on a final basis, of fees in the amount of \$6,500.00 and expenses of \$0.00. *See* Docket No. 118.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(6), Applicant "shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of [] a hearing on any entity's request for compensation or reimbursement of expenses of the request exceeds \$1,000." This Court's Local Rule 2016-1(a)(2)(B) provides that "Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002."

Here, that *Notice of Hearing on Application for Payment of: Final Fees and/or Expenses [11 U.S.C. § 331 or § 330]* (the "Notice") was served on the entire mailing

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

matrix on June 9, 2025. *See* Docket No. 121. There has been no opposition to the Application. The Court therefore takes the default of all non-responding parties served with the Notice.

Analysis

Sections 330(a)(1)(A) and (B) of the Bankruptcy Code provide that the Court may award a professional person "reasonable compensation for actual, necessary services rendered by the [professional person], and "reimbursement for actual, necessary expenses." *See* 11 U.S.C. §§ 330(a)(1)(A) and (B). Section 330(a)(3) of the Bankruptcy Code provides that "[i]n determining the amount of reasonable compensation to be awarded to [a professional person], the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors..." *See* 11 U.S.C. § 330(a)(3). "A bankruptcy court also must examine the circumstances and the manner in which services are performed and the results achieved in order to arrive at a determination of a reasonable fee allowance. Such examination, in general, should include the following questions: First, were the services authorized? Second, were the services necessary or beneficial to the administration of the estate at the time they were rendered? Third, are the services adequately documented? Fourth, are the fees requested reasonable, taking into consideration the factors set forth in § 330(a)(3)." *In re Mednet*, 251 B.R. 103, 108 (9th Cir. BAP 2000)(internal citations omitted).

In the instant case, Applicant was employed by the Court's order on a flat fee of \$800 per month for bookkeeping and accounting services and \$2,500 for preparation of state and federal income tax returns. *See* Docket Nos. 52, *Application of Debtor and Debtor-in-Possession to Employ Accountant* and 82, *Order on Application of Debtor and Debtor-in-Possession to Employ Accountant*. In reviewing the invoices attached to the Application (five months of monthly bookkeeping and accounting services from January 2025 to May 2025, and federal and California income tax returns for the 2024 tax year), the Court finds, on a final basis, that the services performed by Applicant on behalf of the Debtor's estate were necessary and beneficial to the administration of the estate, were properly documented, and are reasonable considering the factors found in 11 U.S.C. § 330(a)(3). The Court approves the Application, on a final basis, pursuant to 11 U.S.C. § 330, allowing Applicant fees in the amount of \$6,500.00 and expenses of \$0.00.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... VH Nutrition, LLC

Chapter 11

Applicant is to upload a conforming order within 7 days.

Party Information

Debtor(s):

VH Nutrition, LLC

Represented By
William C Beall
Carissa N Horowitz
Ryan W Beall

Movant(s):

VH Nutrition, LLC

Represented By
William C Beall
Carissa N Horowitz
Ryan W Beall

Costello Accounting and Tax, LLC

Represented By
William C Beall

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10187 Pacer Print

Chapter 11

#35.00 Hearing re: [98] Motion for order to assume one non-residential lease and motion to reject second non-residential lease

Docket 98

Tentative Ruling:

July 8, 2025

Appearances waived.

Background

On February 18, 2025, Pacer Print (the "Debtor") filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code. *See* Docket No. 1, *Voluntary Petition for Non-Individuals Filing for Bankruptcy*.

The Debtor scheduled a sublease with James Ko, DBA, Zion Dental (the "Chatsworth Landlord") for real property located at 9257 Eton Avenue, Chatsworth, California 91311 (the "Chatsworth Lease") and with an unsecured debt of \$44,784.00 owing to the Chatsworth Landlord. *See id.* at *Schedule G: Executory Contracts and Unexpired Leases*, p. 41; and *Schedule E/F: Creditors Who Have Unsecured Claims*, p. 36.

The Debtor also scheduled a lease with Johnson Boyce Properties, LLC (the "Simi Valley Landlord") for real property located at 4101 Guardian Street, Simi Valley, California 93063 (the "Simi Valley Lease"). *See id.* at *Schedule G: Executory Contracts and Unexpired Leases*, p. 41. The Debtor scheduled the Simi Valley Landlord as having an unsecured claim of \$0.00. *See* Docket No. 72, *Amended Schedule E/F: Creditors Who Have Unsecured Claims*, p. 10. The Simi Valley Landlord has yet to file a proof of claim, and the claims deadline passed on May 30, 2025. *See* Docket No. 52, *Order Setting Bar Date for Filing Proofs of Claim*.

In 2024, the Debtor vacated the Chatsworth Lease and moved to the Simi Valley Lease due to the Chatsworth Landlord closing its business. *See* Docket No. 98, p. 8 lines 12-19, *Motion for Order to Assume One Non-Residential Lease and Motion to*

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Pacer Print

Chapter 11

Reject Second Non-Residential Lease (the "Motion"). The Debtor asserts that it utilizes the Simi Valley Lease for its "administrative, business, manufacturing, and storage needs as well as the distribution of products sold to clients" and that the "Simi Valley location is imperative to [its] success." *See id.* at p. 7 lines 1-2 and 23. Additionally, the Debtor asserts that the Simi Valley Lease is an under-market lease as the Debtor pays approximately \$1.31 per square foot, whereas the market is about \$1.45 per square foot. *See id.* at lines 21-22.

Lastly, the Debtor asserts that it owes \$10,153.14 in arrearages on the Simi Valley Lease due to unpaid prepetition CAM fees, but is otherwise current post-petition. *See id.* at p. 2, lines 9-13.

Before the Court is the Motion. *See* Docket No. 98. Through the Motion, the Debtor seeks to (1) reject the Chatsworth Lease, as it is not essential to the Debtor's business and harms its chances to reorganize, and (2) assume the Simi Valley Lease and cure the arrears in five monthly payments of \$2,500 starting 30 days from an order approving the Motion. *See id.* at pp. 1-2; and Docket No. 103, *Declaration of Peter Varady in Support of Motion for Order to Assume One Non-Residential Lease and Motion to Reject Second Non-Residential Lease*, ¶¶ 22 and 28.

Notice

Pursuant to Fed. R. Bankr. P. 6006(a), "Rule 9014 governs a proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan." Pursuant to Fed. R. Bankr. P. 9014(a), "[r]easonable notice and an opportunity to be heard must be given to the party against whom relief is sought."

On June 13, 2025, the Debtor filed *Notice of Motion for Order to Assume One Non-Residential Lease and Motion to Reject Second Non-Residential Lease* (the "Notice"). *See* Docket No. 99. On June 13, 2025, the Motion and Notice were served via Notice of Electronic Filing [NEF] upon the NEF parties and via United States mail, first class, postage prepaid upon the creditor mailing matrix. *See* Docket No. 98, *Proof of Service of Document*, pp. 125-130; and Docket No. 99, *Proof of Service of Document*, pp. 3-9.

Pursuant to this Court's Local Rule 9013-1(h), "if a party does not timely file and

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Pacer Print

Chapter 11

serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be." No party served with the Motion or Notice has timely filed an opposition to the Motion. The Court therefore takes the default of all non-responding parties served with the Notice.

Analysis

Pursuant to 11 U.S.C. § 365(a), "subject to the court's approval [a debtor in possession] may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). "Whether to assume or reject an executory contract is generally left to the business judgment of the trustee or debtor in possession." *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 475 n.4 (Bankr. C.D. Cal. 2013) (citing *In re G.I. Indus.*, 204 F.3d 1276, 282 (9th Cir. 2000)). "As long as assumption of a lease [] appears to enhance a debtor's estate, court approval of a debtor-in-possession's decision to assume the lease should only be withheld if the debtor's judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code." *In re Great Northwest Recreation Center, Inc.*, 74 B.R. 846, 853 (Bankr. D. Mt. 1987)(citing *Allowed Technology, Inc. v. R.B. Brunemann & Sons*, 25 B.R. 484, 495 (Bankr. S.D. Oh. 1982)).

"If there has been a default in an [] unexpired lease of the debtor, the trustee may not assume such [] lease unless, at the time of assumption of such [] lease, the trustee [] cures, or provides adequate assurance that the trustee will promptly cure, such default..." 11 U.S.C. § 365(b)(1)(A). What constitutes a prompt cure of a default lies within the bankruptcy court's sound discretion. *See General Motors Acceptance Corp. v. Lawrence*, 11 B.R. 44, 45 (Bankr. N.D. Ga. 1981).

In this case, the Debtor has demonstrated that, in its business judgment, assumption of the Simi Valley Lease is in the best interest of the estate. The Debtor's business operations rely on the Debtor operating from the location in Simi Valley. *See* Docket No. 98 at p. 7, lines 5-11. The Debtor asserts that to move from the Simi Valley location "would require time and energy and the expenditure of logistics of as much as \$500,000 to \$1 million" and that "[t]here would be further additional costs in the loss of sales, orders, and customers totaling as much as \$1 million." *See id.* at pp. 7-8. What is more, as noted *supra*, the Debtor asserts that the Simi Valley Lease is below market.

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Pacer Print

Chapter 11

The Debtor proposes to cure the arrearages for prepetition CAM charges related to the assumption of the Simi Valley Lease over a period of five (5) months. The Simi Valley Landlord has not opposed the cure amount, or the cure period. The Court finds that the proposed cure of the Simi Valley Lease arrearages is appropriate.

On the other hand, the Debtor contends the Chatsworth Lease is no longer required or utilized for any business or reorganization needs of the Debtor. *See id.* at p. 9, lines 4-5. The Debtor completely operates from the Simi Valley location. There appears to be no need for the Chatsworth Lease any longer, and the Chatsworth Lease at this juncture poses an undue and unnecessary hardship on the Debtor. Given the absence of any opposition to the Motion, the Court finds it appropriate for the Debtor to reject the Chatsworth Lease.

The Court will grant the Motion pursuant to 11 U.S.C. § 365(a). The Debtor is to upload a conforming order with seven (7) days.

Party Information

Debtor(s):

Pacer Print

Represented By
Steven R Fox

Movant(s):

Pacer Print

Represented By
Steven R Fox
Steven R Fox

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10090 Edward Ned Li

Chapter 11

#36.00 CONT'D Hearing RE: [30] Objection to Debtor's Claim of Exemptions Filed by Creditors CSS Enterprises, Inc., C. Shawn Skillern. (Winthrop, Rebecca) (Subchapter V)

fr. 5-21-24, 7-23-24, 8-20-24, 10-8-24, 11-21-24, 12-12-24, 5-21-25,

Docket 30

***** VACATED *** REASON: Hearing continued to 9/9/25 at 1:00 p.m. per order entered 4/24/25**

Tentative Ruling:

October 8, 2024

Appearances required.

Edward Ned Li (the "Debtor") filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code on January 27, 2024. *See* Docket No. 1, *Voluntary Petition for Individuals Filing for Bankruptcy*. The Debtor elected to proceed under Subchapter V of Chapter 11. *See id.* at p. 4.

On March 22, 2024, C. Shawn Skillern and CSS Enterprises, Inc. ("CSS") filed that *Motion for Order Sustaining Creditor's Objections to Debtor's Edward N. Li's Claimed Exemptions* (the "Exemption Objection"). *See* Docket No. 30. On March 25, 2024, CSS filed that *Motion for Order Sustaining Creditor's Objection to Debtor Edward N. Li's Subchapter V Eligibility* (the "Eligibility Objection"). *See* Docket No. 34. On April 25, 2024, the Debtor filed *Debtor's Chapter 11 Subchapter V Plan* (the "Plan"). *See* Docket No. 40. The Court has continued the hearings on the Exemption Objection and the Eligibility Objection from time to time at the request of the parties. *See* Docket Nos. 50, 62 and 74.

The Court has no understanding of the status of the Debtor's case or the pending motions at this juncture, as the Debtor has failed to file and serve a status conference report prior to the upcoming status conference as required by that *Order Setting Initial Status Conference*. *See* Docket No. 5. It appears that the disputes among the parties were mediated, and, in light of the absence of any notice of the outcome of the

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT...

Edward Ned Li

Chapter 11

mediation, the Court presumes the mediation did not result in a full resolution of these disputes. *See* Docket No. 52.

As the instant matter is a Subchapter V case, and given the velocity with which cases under Subchapter V are to progress, the Court will posture the pending matters for resolution. To this end, the Court closes the record on the Exemption Objection and the Eligibility Objection, as the response deadlines have now passed. *See* Local Rule 9013-1(m)(4). The Court will hold an in-person hearing on the Exemption Objection and the Eligibility Objection on November 21, 2024, at 1:00 p.m. The Court will also hold a status conference on November 21, 2024, at 1:00 p.m., where, and subject to the outcome of the hearings on the Exemption Objection and the Eligibility Objection, the Court will establish a confirmation hearing and related dates for the Plan.

Party Information

Debtor(s):

Edward Ned Li

Represented By
Stella A Havkin

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10090 Edward Ned Li

Chapter 11

#37.00 CONT'D Hearing RE: [34] Motion For Order Sustaining Objections to Debtors
Subchapter V Eligibility (Winthrop, Rebecca)
(Subchapter V)

FR. 6-4-24, 7-23-24, 8-20-24, 10-8-24, 11-21-24, 12-12-24, 5-21-25,

Docket 34

***** VACATED *** REASON: Hearing continued to 9/9/25 at 1:00 p.m. per
order entered 4/24/25**

Tentative Ruling:

October 8, 2024

See matter 26.

Party Information

Debtor(s):

Edward Ned Li

Represented By
Stella A Havkin

Movant(s):

CSS Enterprises, Inc.

Represented By
Rebecca J Winthrop

C. Shawn Skillern

Represented By
Rebecca J Winthrop

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:24-10090 Edward Ned Li

Chapter 11

#38.00 CONT'D Chapter 11 Status Conference (Subchapter V Case)

fr. 3-19-24, 5-21-24, 7-23-24, 8-20-24, 10-8-24, 11-21-24,
12-12-24, 5-21-25,

Docket 1

***** VACATED *** REASON: Hearing continued to 9/9/25 at 1:00 p.m. per
order entered 4/24/25**

Tentative Ruling:

October 8, 2024

See matter 26. The Court will also inquire with the U.S. Trustee regarding the Debtor's compliance with *Guidelines and Requirements for Chapter 11 Debtors in Possession*.

March 19, 2024

Appearances required.

The Court has reviewed that *Subchapter V Status Report*. See Docket No. 25. The Court will inquire with the U.S. Trustee regarding the Debtor's compliance with *Guidelines and Requirements for Chapter 11 Debtors in Possession*.

Party Information

Debtor(s):

Edward Ned Li

Represented By
Stella A Havkin

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:23-10672 S&W Blue Jay Way, LLC

Chapter 11

#39.00 CONT'D Hearing re: [286] Motion for order compelling Michelle Lerman to appear at a continued deposition and to produce responsive documents

fr. 5-20-25, 6-17-25, 6-25-25, 6-27-25,

Docket 286

Tentative Ruling:

June 27, 2025

Appearances waived.

The hearing on this motion is continued to July 8, 2025, at 1:00 p.m.

June 25, 2025

Appearances required.

May 20, 2025

Appearances waived.

This matter is continued to June 3, 2025, at 1:00 p.m.

Party Information

Debtor(s):

S&W Blue Jay Way, LLC

Represented By
Roya Zur
Lauren N Gans

Movant(s):

S&W Blue Jay Way, LLC

Represented By

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... S&W Blue Jay Way, LLC

Chapter 11

Roye Zur
Lauren N Gans

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:23-10157 Baron Brothers Nursery, Inc.

Chapter 7

Adv#: 9:25-01009 Sandra K. McBeth, Chapter 7 Trustee v. JPMorgan Chase Bank, National

#40.00 CONT'D Hearing re: [18] Motion of Defendant JPMorgan Chase Bank, N.A. for
leave to file a third-party complaint against Richard Baron and Sandra Baron

fr. 6-27-25,

Docket 18

Tentative Ruling:

June 27, 2025

Appearances waived.

The hearing on the motion is continued to July 8, 2025, at 1:00 p.m. The record is closed.

Party Information

Debtor(s):

Baron Brothers Nursery, Inc.

Represented By
William E. Winfield

Defendant(s):

JPMorgan Chase Bank, National

Represented By
Matthew S Henderson
Bryant S Delgadillo

Movant(s):

JPMorgan Chase Bank, National

Represented By
Matthew S Henderson
Bryant S Delgadillo

Plaintiff(s):

Sandra K. McBeth, Chapter 7

Represented By
Samuel Mushegh Boyamian

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... Baron Brothers Nursery, Inc.

Chapter 7

Trustee(s):

Sandra McBeth (TR)

Represented By
Samuel Mushegh Boyamian
Jeremy Faith

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10820 SEN Fitness Group

Chapter 11

#41.00 CONT'D Hearing re: [10] Emergency motion in Chapter 11 case for order authorizing use of cash collateral (11 U.S.C. § 363)

fr. 6-27-25,

Docket 10

Tentative Ruling:

July 8, 2025

Appearances required.

June 27, 2025

Appearances required.

Before the Court is that *Notice of Motion and Motion in Chapter 11 Case for Order Authorizing Use of Cash Collateral [11 U.S.C. § 363]* (the "Motion"). *See* Docket No. 10. Through the Motion, SEN Fitness Group (the "Debtor") seeks authority to use cash collateral of Navitas Credit Corp., Transportation Alliance Bank, Inc., and CT Corp. Systems, on an interim basis, through and including July 31, 2025. *Id.*

First, the Court finds no notice of the hearing on the Motion filed on the docket, which the Court required as a condition to setting the Motion on emergency basis.

Second, the Court has trouble comprehending the Motion. The Court finds no budget for the interim period. Rather, the Court finds annual "Fest" projections for years 2024 through 2028, not broken into month format, and a balance sheet ending April 30, 2025, nearly two (2) months prior to the Debtor's filing Chapter 11. *See id.* at Exhibits B and C. The Court is unable to appreciate what cash collateral amounts the Debtor seeks to utilize, for what purposes, or the collateral base of the creditors whose cash collateral the Debtor seeks to utilize, both before the Debtor's proposed use of cash collateral, and after.

Party Information

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

CONT... SEN Fitness Group

Chapter 11

Debtor(s):

SEN Fitness Group

Represented By
Eric Bensamochan

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Tuesday, July 8, 2025

Hearing Room 201

1:00 PM

9:25-10820 SEN Fitness Group

Chapter 11

#42.00 Special Chapter 11 Status Conference

Docket 1

Tentative Ruling:

July 8, 2025

Appearances required.

Party Information

Debtor(s):

SEN Fitness Group

Represented By
Eric Bensamochan