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

Tuesday, October 21, 2025 **Hearing Room 201**

9:00 AM
9: - **Chapter 0**

#0.00 **IMPORTANT UPDATE: DUE TO THE GOVERNMENT SHUTDOWN, AND UNTIL FURTHER NOTICE, MOST MATTERS WILL NOT GO FORWARD AS PREVIOUSLY NOTICED. ONLY THE FOLLOWING MATTERS WILL BE HEARD UNTIL FURTHER NOTICE:**

- **MOTIONS FOR RELIEF FROM STAY OR TO CONTINUE/IMPOSE THE STAY WILL CONTINUE TO BE HEARD AS REGULARLY CALENDARED.**
- **CHAPTER 13 CONFIRMATION HEARINGS, CHAPTER 13 TRUSTEE MOTIONS TO DISMISS, AND MOTIONS TO MODIFY CHAPTER 13 PLANS WILL CONTINUE TO BE HEARD AS REGULARLY CALENDARED; AND**
- **ANY EMERGENCY MOTIONS WILL BE HANDLED ON A CASE-BY-CASE BASIS AND PURSUANT TO THE LOCAL BANKRUPTCY RULES. CONTACT THE COURTROOM DEPUTY AT 213-894-1485 IF YOU HAVE AN EMERGENCY.**

PLEASE REFER TO THE COURT'S TENTATIVE RULINGS FOR FURTHER DIRECTION.

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Docket 0

Tentative Ruling:

- NONE LISTED -

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9:23-10057 Unlikely Heroes, Inc. **Chapter 7**

#1.00 Hearing re: [367] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: Human Investment Foundation et al. v. Unlikely Heroes, Inc., et al., Case No. 048-317171-20, 48th Judicial District Court of Tarrant County, Texas

Docket 367

Tentative Ruling:

October 21, 2025

Appearances waived. The Court will grant the Motion for "cause" under 11 U.S.C. § 362(d)(1), including waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3). Movants to upload a conforming order within 7 days.

Background

On January 30, 2023 (the "Petition Date"), Unlikely Heroes, Inc. (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 Non-Individuals Filing for Bankruptcy*. Sandra McBeth (the "Trustee") is the duly appointed Chapter 7 Trustee for the Debtor's bankruptcy estate. *See* Docket No. 2, *Notice of Chapter 7 Bankruptcy Case*. On September 5, 2025, the Court entered that *Order Approving Compromise of Controversy and Sale of Assets of the Estate* (the "9019 Order"). *See* Docket No. 365. The 9019 Order related to that *Motion to Compromise Controversy With Points and Authorities* (the "9019 Motion"). *See* Docket No. 251. Through the 9019 Motion, the Trustee sought this Court's approval of that *Settlement Agreement* (the "Agreement"), a settlement agreement as between the Trustee on behalf of the Debtor's bankruptcy estate and Human Investment Foundation ("HIF") resolving several disputes, including the allowance of HIF's claim against the Debtor's bankruptcy estate, pursuant to Fed. R. Bankr. P. 9019, and the sale of certain of the Debtor's assets to HIF. *See id.* As a part of the Agreement, the Trustee, on behalf of the Debtor's bankruptcy estate, and HIF agreed to certain mutual releases. *See id.* at p. 10. As a part of those mutual releases, the parties agreed to dismiss claims as between the Debtor and HIF, made in case styled *HIF, et al. v. UH, et al.*, Cause No.

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CONT... Unlikely Heroes, Inc. **Chapter 7**

048-317171-20, pending in the 48th Judicial District of Tarrant County, Texas (the "Texas Litigation"). *See id.* at p. 11. This mutual dismissal of claims in the Texas Litigation would first be accomplished through the filing of a "joint motion requesting the Bankruptcy Court to lift the stay [] for (i) the continued prosecution of the Texas Lawsuit and (ii) so that each Party may dismiss with prejudice all Claims brought by and against the other Party in the Texas Lawsuit…" *Id.*

Claims between third parties in the Texas Litigation were not to be affected by the Agreement. *See id.*

On September 30, 2025, HIF filed that *Notice of Motion and Joint Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Action in Nonbankruptcy Forum)* (the "Motion"), seeking a lifting of the automatic stay to allow the Texas Litigation to move forward for the purpose of effectuating the Agreement. *See* Docket No. 367.

HIF seeks 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) the Motion is being filed pursuant to the Agreement between the Trustee and HIF. *See id.* at pp. 3-4 and *Exhibit A*; *see also* Docket No. 251 at *Exhibit A*; Docket No. 365. **[FN 1]** HIF 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 property of the Debtor's bankruptcy estate, and (2) waiver of the 14-day stay prescribed by FRBP 4001(a)(3). *See* Docket No. 367*,* pp. 4-5.

<u>*Notice*</u>

The Motion and notice thereof were served upon certain parties-in-interest via U.S. Mail, first class, postage prepaid, on September 30, 2025, notifying parties-in-interest 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 October 7, 2025, Erica Greve ("Greve") filed that *Opposition to Joint Motion for Relief from the Automatic Stay and Request for Hearing on October 21, 2025 with Declaration* (the "Opposition"). *See* Docket No. 369. In the Opposition, Greve asserts that the Court should deny the Motion in its entirety because 1) the Motion is procedurally defective, 2) the *Curtis* factors weigh against stay relief, and 3) HIF's claims against Greve personally "are derivative of the [D]ebtor's conduct and are therefore property of the estate subject to the automatic stay." *See id*., p. 14.

On October 7, 2025, the Trustee filed that *Notice of Non-opposition*. *See* Docket No. 370.

On October 14, 2025, HIF filed *Human Investment Foundation's (I) Reply to Erica Greve's Objection to the Joint Motion for Relief from the Automatic Stay, and (II) Objection to Greve Declaration*. *See* Docket No. 373.

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).

Cause here exists to lift the stay to allow the Texas Litigation. First, the Agreement and the 9019 Order required that the Texas Litigation proceed in order that the Trustee on behalf of the Debtor's bankruptcy estate and HIF may dismiss claims against the other, thereby effectuating the Agreement, and therefore the 9019 Order. In fact, it is not clear that the Motion was even required. The 9019 Order specifically provides that "[t]he automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to implement the terms and conditions of the Settlement Agreement and the provisions of this Order, without further notice, hearing, or Court order required." *See* Docket No. 365, p. 10, lines 9-11. Necessarily, the stay would need to be lifted to effectuate the terms of the Agreement.

"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, at *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 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 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 (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

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

Were the Court to grant the Motion, prosecution of the Texas Litigation would continue "so that all claims in the [Texas Litigation] [] between the Debtor and the Human Investment Foundation, Janet Jensen, Human Investments LLC, The Jense Project, Inc., Rebecca Bender, and the Elevate Academy f/k/a Rebecca Bender Initiative [] may be dismissed with prejudice per ¶ 4 of the Settlement Agreement." *See* Docket No. 367 at *Exhibit A*. Granting the Motion would also allow "HIF [to] proceed with litigation or closure against all [] non-Debtor parties" "including, for avoidance of doubt Debtor's Representatives, including Erica Greve," pursuant to ¶ 5 of the Settlement Agreement. *See id*.

Lifting the stay to allow the Texas Litigation to continue so that claims against the Debtor could be dismissed would resolve all issues as between the Debtor and HIF, leaving only, as regarding HIF and the Debtor, the administration of HIF's allowed claims by the Trustee. This factor weighs in favor of granting relief.

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

Upon the Court's entry of the 9019 Order, HIF waived any claims it had against the Debtor that were not allowed through the 9019 Order. The Motion allows the Debtor to be dismissed from the Texas Litigation. There is a connection as between the granting of the Motion and the effectuation of the 9019 Order. This factor weighs in favor of granting relief.

Whether the foreign proceeding involves the debtor as a fiduciary

In the Texas Litigation, HIF asserts that the Debtor breached its fiduciary duties to HIF. *See* Docket No. 369 at *Exhibit B*, p. 16. "[A] proceeding in which the debtor is a fiduciary generally need not be stayed because they bear no relationship to the purpose of the automatic stay, which is debtor protection from his creditor." *In re Bailey*, 11 B.R. 199, 202 (Bankr. E.D. Va. 1981) (citing H.R.Rep.No.595, 95th Cong., 1st Session 343-4 (1977)). Here, the Debtor is the corporate defendant in the Texas Litigation. This factor weighs in favor of granting relief.

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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

HIF and/or its affiliates' causes of action against the Debtor in the Texas Litigation include: (i) Breach of Contract; (ii) Fraudulent Inducement; (iii) Money Had and Received; (iv) Breach of Fiduciary Duties; (v) Suit for Declaratory Relief under Texas Property Code Section 163.004(a); (vi) Suit for Declaratory Relief – Revocation of Gift; (vii) Negligent Management of Charitable Funds; (viii) Conversion; (ix) Accounting; and (x) Common Law Fraud. The Debtor's causes of action against HIF and/or its affiliates include: (i) Breach of Contract; (ii) Anticipatory Repudiation; (iii) Fraudulent Inducement; (iv) Self-Dealing; (v) Tortious Interference with Contract; (vi) Conversion; and (vii) Civil Conspiracy. *See* Docket No. 251 at *Exhibit A*, p. 11. The State Court is not a specialized tribunal, and there is not a specialized expertise required of the State Court to hear the Texas Litigation. *See In re Curtis*, 40 B.R. 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").

This factor weighs against granting the Motion.

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.

This factor weighs against granting the Motion.

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

This factor is not applicable.

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 dismissing the Debtor's claim against HIF, and vice-versa, in the Texas Litigation would prejudice other creditors or interested parties. To the contrary, the Court found the Agreement to be in the best interest of creditors, and, therefore, the effectuation of the Agreement meets the best interest of creditors of the Debtor's bankruptcy estate.

In the Opposition, Greve asserts that all claims asserted by HIF against her personally in the Texas Litigation are "derivative of the debtor's conduct and are therefore property of the estate subject to the automatic stay" and that she would be prejudiced were the Court to lift the stay. *See* Docket No. 369, p. 14. Although not entirely clear, it appears that Greve's argument is that the claims against her in the Texas Litigation belong to the Debtor's bankruptcy estate.

The Motion, however, is a simple one. The Motion requests relief from the stay so that HIF may proceed to final judgment in the Texas Litigation. The Court is not tasked with deciding which claims remaining in the Texas Litigation belong to the Debtor's bankruptcy estate. To that extent, the Opposition argues issues not requested as a part of the Motion's prayer for relief.

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

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 Texas Litigation since its filing in 2020. *See* Docket No. 367, p. 6. Granting the Motion promotes judicial economy because it would result in the dismissal with prejudice of all claims between the Debtor and HIF and/or its affiliates.

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

The Motion does not specify a trial date for the Texas Litigation, making it difficult for the Court to assess the parties' readiness for trial. That said, it is of little importance here in that the claims against the Debtor are being dismissed.

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

The Texas Litigation has been pending in State Court for more than five years. Since the Debtor and HIF and/or its affiliates have agreed to dismiss with prejudice all claims between them in the Texas Litigation, both parties would be delayed in expeditiously resolving their disputes if the stay remains in place. This factor weighs in favor of granting relief.

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).

Pursuant to this Court's discretion, the 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Conclusion

If the terms of the 9019 Order did not themselves terminate the stay as to the Texas Litigation, 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 prescribed by FRBP 4001(a)(3).

[FN 1] Movants further check the boxes that 1) mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and (2) the bankruptcy case was filed in bad faith. *See* Docket No. 367, *Declaration re Action in Nonbankruptcy Forum*, p. 7. However, the Motion itself does not seek relief on either of these grounds and provides no further support to justify them. *See id*., pp. 3-4.

Party Information

Debtor(s):

Unlikely Heroes, Inc.	Represented By Richard P Towne

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Movant(s):

Human Investment Foundation	Represented By Wayne R Terry Jacqueline L James Jessica M. Simon

Trustee(s):

Sandra McBeth (TR)	Represented By William C Beall Carissa N Horowitz Ryan W Beall

9:00 AM

9:25-10972 Hector Ayala **Chapter 7**

#2.00 CONT'D Hearing re: [17] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 914 Walnut Drive, Oxnard, California 93036-1836

fr. 9-9-25,

Docket 17

Tentative Ruling:

October 21, 2025

Appearances required.

Counsel for the Debtor appeared at the September 9, 2025, hearing and requested a continuance to allow the Court to consider the *Debtor's Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)* (the "Motion to Convert"). *See* Docket No. 20. On September 12, 2025, Movant filed that *Opposition to Debtor's Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)* and *Notice of Opposition and Request for a Hearing. See* Docket Nos. 26-27. On September 26, 2025, the Debtor filed that *Notice of Motion for: Debtor's Motion to Convert from Chapter 7 to 13* setting the Motion to Convert for hearing on October 21, 2025, at 1:00 p.m. The hearing on this Motion is set to be heard at 1:00 p.m., on October 21, 2025. The Court has reviewed the Motion to Convert, and issued a tentative ruling, denying the Motion to Convert. The Debtor may be eligible for Chapter 11, but is not eligible for Chapter 13, based on the Debtor's scheduled unsecured debt.

The Court will grant the Motion pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2).

September 9, 2025

Appearances required.

9:00 AM
CONT... **Hector Ayala** **Chapter 7**

Background

On August 31, 2022, Hector Ayala (the "Debtor") filed a petition for relief under Chapter 7 of Title 11 of the United States Code. *See* Case No. 9:22-bk-10675-RC (the "Prior Case"). The Debtor received a discharge in the Prior Case on December 5, 2022. *See* the Prior Case, Docket No. 19.

On July 23, 2025 (the "Petition Date"), the Debtor filed a further voluntary Chapter 7 petition under Title 11 of the United States Code. *See* Case No. 9:25-bk-10972-RC (this "Case") (hereinafter all citations to the Docket will refer to this Case unless otherwise specified). On August 29, 2025, the Debtor filed *Debtor's Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)*, seeking to convert this Case from one under Chapter 7 to Chapter 13. *See* Docket No. 20.

Motion

MAN Investment Corporation, A California Corporation ("Movant") seeks a lifting of the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) in relation to the residential real property located at 914 Walnut Dr., Oxnard, CA 93036-1836 (the "Property") of the Debtor on the grounds that (1) Movant's interest in the Property is not adequately protected by an adequate equity cushion, (2) the bankruptcy case was filed in bad faith, (3) postpetition mortgage payments due on the note have not been made to Movant, and the loan matured on December 15, 2024, (4) the Debtor filed a statement of intentions that indicates his intention to surrender the Property **[FN 1]**, and (5) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Property; and, pursuant to 11 U.S.C. § 362(d)(2)(B) the Property is not necessary for an effective reorganization. *See* Docket No. 17, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 – Real Property* (the "Motion").

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) waiver of the 14-day stay prescribed by Fed. R. Bankr. P. 4001(a)(3), and (3) that the order be binding in any and all chapters following any subsequent conversion of this case under a different chapter of Title 11 of the United States Code, unless a specific exception has been provided. *See id.,* p. 5, *Memorandum of Points* *and Authorities in Support of Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)(1)* (the "Memo").

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on August 11, 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*, pp. 12-14. 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

11 U.S.C § 362(d)(1) – Lack of Adequate Protection

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 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.N.J. 2002). While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *Id.* at 1397. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *Id.*

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id.* (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient equity cushion has been found to exist although not a single mortgage payment had been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

Here, Movant first contends that its interest in the Property is not adequately protected. Movant asserts that the loan became all due and payable because it matured on December 15, 2024. *See* Docket No. 17, the Memo, p. 5. Movant recorded a notice of default on March 20, 2025, and a notice of sale on June 30, 2025. *See id*, p. 7. Movant asserts a secured claim against the Property in the amount of $202,896.44. *See id.*

As of the petition date of July 23, 2025, Movant asserts that the fair market value of the Property was $750,000.00 per the Debtor's *Schedule A/B: Property*. *See id.* at *Exhibit 9.* Movant asserts that the equity cushion in the Property exceeding Movant's debt and any liens senior to Movant's debt is $0 or 0.00% of the fair market value of the Property. *See id.*, p. 8. Subtracting the total liens on the Property as outlined in the Memo (including the senior lien of SPS in the amount of $260,000.00, Movant's lien, the July 25, 2017 Federal Tax Lien in the amount of $36,888.78, the August 29, 2017 Federal Tax Lien in the amount of $14,679.94, the September 6, 2017 Federal Tax Lien in the amount of $17,765.17, the December 20, 2017 Ventura County Unsecured Tax Lien in the amount of $272.07, the May 2, 2018 Federal Tax Lien in the amount of $15,857.37, the August 1, 2018 Federal Tax Lien in the amount of $9,860.10, the December 5, 2018 Ventura County Unsecured Tax Lien in the amount of $274.70, the June 19, 2019 Federal Tax Lien in the amount of $9,066.10, the December 1, 2021 Federal Tax Lien in the amount of $28.34, the February 14, 2022 Federal Tax Lien in the amount of $28,497.40, the October 7, 2022 State Compensation Fund judgment in the amount of $88,549.01), the Court calculates equity in the amount of $65,364.58 or 8.7%, which is below the 20% cushion held to be sufficient under *In re Mellor*. **[FN 2]** However, it is unclear what the Debtor intends on doing as a Chapter 13 debtor, if the conversion motion is granted.

11 U.S.C § 362(d)(1) – Bad Faith

"The debtor's lack of good faith in filing a bankruptcy petition has often been used as cause for removing the automatic stay." *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "The existence of good faith depends on an amalgam of factors and not upon a specific fact." *Id.* "The bankruptcy court should examine the debtor's financial status, motives, and the local economic environment." *Id*. The Ninth Circuit cited the Ninth Circuit Bankruptcy Appellate Panel regarding bad faith as follows:

"'If it is obvious that a debtor is attempting unreasonably to deter and harass creditors in their bona fide efforts to realize upon their securities, good faith does not exist. But if it is apparent that the purpose is not to delay or defeat creditors but rather to put an end to long delays, administration expenses ... to mortgage foreclosures, and to invoke the operation of the [bankruptcy law] in the spirit indicated by Congress in the legislation ... good faith cannot be denied.'" *Id.*

"Good faith is lacking only when the debtor's actions are a clear abuse of the bankruptcy process." *Id.* (citing *In re Thirtieth Place, Inc.*, 30 B.R. 503, 505 (B.A.P. 9th Cir. 1983) (quotation omitted).

Movant asserts that the bankruptcy case was filed in bad faith because there is no equity in the Property, there are no non-exempt assets for the Chapter 7 trustee to administer, and the Debtor is not eligible to receive a chapter 7 discharge in this Case given that he received a discharge in the Prior Case on December 5, 2022. *See* Docket 17, the Memo, p. 7. As indicated above, the Property has equity in the amount of $65,364.58. The Debtor does not claim an exemption in the Property. *See* Docket No. 15, *Schedule C: The Property You Claim as Exempt*. According to the Debtor's *Schedule E/F: Creditors Who Have Unsecured Claims*, the Debtor has seven unsecured creditors with claims totaling $875,999.00. *See id., Schedule E/F: Creditors Who Have Unsecured Claims*. A large portion of the unsecured claims is for the "Dept of Treasury" in the amount of $800,000.00. *See id.,* p. 3.

11 U.S.C. § 727(a) provides that "[t]he court shall grant the debtor a discharge, unless— . . . (8) the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371, or 476 of the Bankruptcy Act, in a case commenced within 8 years before the date of the filing of the petition." Here, the Debtor received a discharge in the Prior Case on December 5, 2022. The Prior Case

was commenced August 31, 2022, which is within 8 years before the Petition Date. *See* the Prior Case. Therefore, the Debtor is not eligible for a discharge in this Case unless this Case is converted to Chapter 13.

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 (B.A.P. 9th Cir. 1981).

Since reorganization is not relevant in Chapter 7, the only issue is whether there is equity in the property. As indicated above, if the Court uses the figures in the Memo, there is $65,364.58 in equity in the Property. Conversely, if the Court uses the figures in Schedule B, there is no equity in the Property. Again, this all presumes this Case will not be converted to Chapter 13.

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 if the Court decides to grant the Motion.

[FN 1] The Debtor filed that *Statement of Intention for Individuals Filing Under Chapter 7*, which indicates that the Debtor wishes to retain, and not surrender, the Property. *See* Docket No. 15, *Statement of Intention for Individuals Filing Under*

9:00 AM
CONT... **Hector Ayala** **Chapter 7**

Chapter 7, p. 2.

[FN 2] There are additional liens listed on that *Commonwealth Land Title Insurance Company SCHEDULE B* (the "Schedule B") that are not listed in the Memo. *See* Docket No. 17 at *Exhibit 10.* It is not clear to the Court why some liens are included in the Memo and why some liens are not included in the Memo. Movant asserts that there are total tax liens in the amount of $349,016.63. *See id.*, Memo, p. 4. However, the Court calculates that the tax liens listed in the Memo by Movant total $221,738.98. Additionally, if the Court includes all the liens listed in the Schedule B (with the exception of the released judgment lien of Ford Motor Credit Company LLC), the Court calculates total liens of $1,037,469.69. Which figure is the Court supposed to use?

Party Information

Debtor(s):

Hector Ayala — Represented By Bryan Diaz

Movant(s):

MAN INVESTMENT — Represented By Arnold L Graff

Trustee(s):

Jeremy W. Faith (TR) — Pro Se

9:00 AM
9:25-10996 **Marisol Flores** **Chapter 7**

#3.00 Hearing re: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2025 Toyota Camry SE

Docket 8

Tentative Ruling:

October 21, 2025

Appearances waived. The Motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) and (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 September 17, 2025, Toyota Lease Trust as serviced by 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) and (d)(2) in relation to a 2025 Toyota Camry SE (the "Vehicle") of Marisol Flores (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, (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. 8, 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 September 17, 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

9:00 AM
CONT... **Marisol Flores** **Chapter 7**

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 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 issues 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 $39,033.46. *See* Docket No. 8, p. 8. Movant further asserts that the Vehicle is leased, therefore, there is no equity in the Vehicle. *See id.*, pp. 8-9. 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 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 $39,033.46. *See* Docket No. 8, p. 8. Movant asserts that the Debtor is in arrears in the amount of $3,479.34. *See id.* It appears that the Debtor's last monthly payment of $669.10 was received by Movant on February 21, 2025. *See id.* Additionally, the Debtor has failed to provide Movant with evidence of insurance on the Vehicle, and the Debtor filed that *Statement of Intention for Individuals Filing Under Chapter 7* that indicates the Debtor's intention to surrender the Vehicle. *See id.*, p. 10; at *Exhibit 4*.

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

Party Information

Debtor(s):

Marisol Flores	Represented By Todd J Mannis

Movant(s):

Toyota Lease Trust as serviced by	Represented By Kirsten Martinez

Trustee(s):

Sandra McBeth (TR)	Pro Se

9:00 AM

9:25-11003 Monica Ochoa **Chapter 7**

#4.00 Hearing re: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 39 La Venezia Court, Altadena, CA 91001

Docket 11

Tentative Ruling:

October 21, 2025

Appearances waived. The Motion is denied as there is no stay in effect for the Court to lift. Movant to lodge a conforming order within 7 days.

Carrington Mortgage Services, LLC, and its successors and/or assignees ("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 39 La Venezia Court, Altadena, CA 91001 (the "Property") on the grounds that Monica Ochoa (the "Debtor") has no interest or familiarity with the Property. *See* Docket No. 11, *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 – Real Property* (the "Motion").

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) the stay be annulled retroactive to the bankruptcy, and (3) waiver of the 14-day stay pursuant to 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 September 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 id*., *Proof of Service of Document*, p. 14. 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(a), "[e]xcept as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title, or an application filed under section 5(a)(3) of the Securities Investor Protection Act of 1970, operates as a stay, applicable to all entities, of . . . (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate; (4) any act to create, perfect, or enforce any lien against property of the estate; (5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title; (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;. . ."

All of the debtor's legal and equitable interests in property at commencement of the bankruptcy case are automatically included in the bankruptcy estate. 11 USC § 541(a)(1); *see also Clark v. Rameker,* 573 U.S. 122, 134 S. Ct. 2242, 2244, 189 L. Ed. 2d 157 (2014). Property in which the debtor has no legal or equitable interest when the bankruptcy petition is filed does not come into the estate. *See In re Fadel*, 492 B.R. 1, 11 (B.A.P. 9th Cir. 2013).

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." 11 U.S.C. § 362(d)(1).

The Adjustable Rate Deed of Trust and Adjustable Rate Note on the Property identify the "Borrower" as "Ruby N. Davis". *See id.*, at *Exhibit 2-3.* On July 29, 2025, at 12:33 p.m. a Grant Deed (the "Grant Deed") purporting to transfer the Property from the Estate of Ruby N. David to the Debtor was recorded.

Here, the Debtor does not list the Property on that *Schedule A/B: Property*. *See* Docket No. 1, *Schedule A/B: Property,* p. 1. During the 341(a) meeting of creditors,

9:00 AM
CONT... **Monica Ochoa** **Chapter 7**

under the penalty of perjury, the Debtor asserted that she has no interest in the Property, and she has "no idea where [the Property is] even located." *See* Docket No. 11, at *Exhibit 1*, p. 5. Although the Debtor was not specifically questioned about the existence of the Grant Deed, it is the Debtor's uncontroverted testimony that she has no interest in the Property. No evidence to the contrary has been submitted in opposition to the Motion.

The Court is satisfied that the Debtor's 341(a) testimony combined with the Debtor's statements on her schedules, both under the penalty of perjury, establish that the Debtor has no interest in the Property. Therefore, the Property is not property of the estate and there is no stay in effect as to the Property.

Party Information

Debtor(s):

Monica Ochoa	Pro Se

Movant(s):

Carrington Mortgage Services, LLC,	Represented By Christina J Khil

Trustee(s):

Nancy J Zamora (TR)	Pro Se

9:00 AM
9:25-11014 Deborah Garvin **Chapter 7**

#5.00 Hearing re: [15] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Nissan Altima 2.5 SL Sedan 4D - VIN: 1N4BL4EV1KC123969

Docket 15

Tentative Ruling:

October 21, 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 September 26, 2025, Capital One Auto Finance, a division of Capital One, N.A. ("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 2019 Nissan Altima (the "Vehicle") of Deborah Garvin (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) Movant regained possession of the Vehicle prepetition on July 3, 2025, 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. 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 Debtor via U.S. Mail First class, postage prepaid on September 26, 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 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 $19,255.54 as of September 11, 2025. *See* Docket No. 15, p. 8. According to the Kelley Blue Book report, the Vehicle has a fair market value of $11,960.00. *See id.,* at *Exhibit 3*. 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).

Here, Movant asserts a secured claim against the Property in the amount of $19,255.54. *See* Docket No. 15, p. 8. Movant asserts that the Debtor is in arrears in

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CONT... Deborah Garvin Chapter 7

the amount of $6,286.86. *See id.* It appears that the Debtor's last monthly payment of $460.87 was received by Movant on November 15, 2024. *See id.* Additionally, Movant regained possession of the Vehicle pre-petition on July 3, 2025. *See id.*, p. 9.

The Debtor's delinquency, coupled with the Debtor's voluntary surrender of the Vehicle, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Deborah Garvin	Represented By Todd J Mannis

Movant(s):

Capital One Auto Finance, a division	Represented By Kristin A Schuler-Hintz

Trustee(s):

Nancy J Zamora (TR)	Pro Se

9:00 AM

9:25-11120 Griselda Magana **Chapter 7**

#6.00 Hearing re: [11] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Honda Accord VIN: 1HGCV1F48LA045346

Docket 11

Tentative Ruling:

October 21, 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 September 19, 2025, Exeter Finance, 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) and (d)(2) in relation to a 2020 Honda Accord (the "Vehicle") of Griselda Magana (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) Movant regained possession of the Vehicle prepetition on July 9, 2025, 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, (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, adequate protection be ordered. *See id*., p. 5.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on September 19, 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. Pursuant to this Court's Local Rule 9013-1(h), "if a party

9:00 AM

CONT... Griselda Magana **Chapter 7**

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

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 $31,378.62 as of September 1, 2025. *See* Docket No. 11, p. 8. According to the J.D. Power Used Cars/Trucks report, the Vehicle has a fair market value of $24,475.00. *See id.,* at *Exhibit C.* 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).

Here, Movant asserts a secured claim against the Property in the amount of

9:00 AM

CONT... **Griselda Magana** **Chapter 7**

$31,378.62. *See* Docket No. 11, p. 8. Movant asserts that the Debtor is in arrears in the amount of $6,761.88. *See id.* It appears that the Debtor's last monthly payment of $570.61 was received by Movant on April 3, 2025. *See id.* Additionally, Movant regained possession of the Vehicle pre-petition on July 9, 2025. *See id*., p. 9.

The Debtor's delinquency, coupled with the Debtor's voluntary surrender of the Vehicle, constitute cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Party Information

Debtor(s):

Griselda Magana — Pro Se

Movant(s):

Exeter Finance LLC — Represented By
Sheryl K Ith

Trustee(s):

Nancy J Zamora (TR) — Pro Se

9:00 AM

9:22-10340 Michael H. Lesseos **Chapter 13**

#7.00 CONT'D Hearing re: [152] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1582 Glenbrock Lane, Thousand Oaks aka Newbury Park, CA 91320

fr. 9-9-25,

Docket 152

Tentative Ruling:

October 21, 2025

Appearances waived.

Counsel for Movant and the Debtor appeared at the September 9, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No adequate protection agreement has been filed to date. The Motion is granted for the reasons set forth in the September 9, 2025, tentative ruling.

September 9, 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 requests that the Court terminate the co-debtor stay and waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

U.S. Bank NA, successor trustee to Bank of America, NA, successor in interest to LaSalle Bank NA, as trustee, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates Series 2007-HY1 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 1582 Glenbrock Lane, Thousand Oaks, CA 91320 (the "Property") of Michael Lesseos (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *5th Amended Chapter 13 Plan* (the "Plan"). *See* Docket No. 152, *Notice and Motion for Relief from the Automatic 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 co-debtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (5) if relief is not granted, adequate protection be ordered. *See id.* p. 5.

Notice

Under LBR 4001-1(1)(C)(iii), the motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on any applicable co-debtor where relief is sought from the co-debtor stay under 11 U.S.C. §§ 1201 or 1301. Pursuant to this Court's LBR 9013-3(d)(2)(B), service by U.S. Mail must list the exact street address of each person or entity served.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on August 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*, p. 12.

The Motion and notice thereof were served upon Deborah Lesseos, the non-filing co-debtor, via U.S. Mail First class postage prepaid to 1852 Glenbrock Lane, Newbury Park, California 91320. *See id.* The Debtor identifies "Deborah Lesseos" as co-debtor on that *Schedule H: Your Codebtors*. *See* Docket No. 29, *Schedule H: Your Codebtors*, p. 1. Deborah Lesseos's address is 310 E. McCoy Lane, Unit 6A, Santa Maria, California 93455. *See id.* Therefore, the service upon the non-filing co-debtor was improper.

Response

On August 26, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response'). *See* Docket No. 155. In the Response, the Debtor asserts that (1) the Property is necessary for an effective reorganization because it is the Debtor's principal residence, and (2) the Debtor will offer adequate protection to cure the arrears. *See id.*

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 Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 83, pp. 5-6, Class 2. Movant asserts that the Debtor has not made Plan payments consisting of eight (8) postpetition, postconfirmation payments of $2,062.73 and three (3) unpaid postpetition, postconfirmation payments of $2,002.68. *See* Docket No. 152, p. 9. Less a suspense account balance of $1,608.08, Movant asserts that there is a total postpetition delinquency of $20,901.80 (as of the date of the Motion) with a payment of $2,002.68 becoming due June 1, 2025. *See id*. According to the Motion, the last payment of $2,250.00 was received by Movant on April 28, 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 eleven (11) postpetition, postconfirmation mortgage payments pursuant to the terms of the Plan. Therefore, the Motion will be granted.

As to the request to terminate the co-debtor stay pursuant to of 11 U.S.C. § 1201(a) or § 1301(a), the non-filing co-debtor was not served with the Motion at the proper address. Therefore, the request to terminate the co-debtor stay is denied.

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).

9:00 AM

CONT... **Michael H. Lesseos** **Chapter 13**

"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):

Michael H. Lesseos	Represented By Michael F Chekian

Movant(s):

U.S. Bank NA, successor trustee to	Represented By Richard L. Stevenson Nancy L Lee Holly R Shilliday Sean C Ferry David Coats Sarah Arlene Dooley-Lewis

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM

9:24-10085 Jason Alexander Balcena and Monica Felix Balcena **Chapter 13**

#8.00 Hearing re: [59] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Honda HR-V

Docket 59

Tentative Ruling:

October 21, 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 September 17, 2025, Global Lending Services, LLC ("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 2019 Honda HR-V (the "Vehicle") of Jason Alexander Balcena and Monica Felix Balcena (the "Debtors") on the grounds that (1) Movant's interest in the Vehicle is not protected by an adequate equity cushion, (2) the fair market value of the Vehicle is declining and payments are not being made to Movant sufficient to protect Movant's interest against that decline, (3) proof of insurance regarding the Vehicle has not been provided to Movant, and (4) post-confirmation payments have not been made to Movant pursuant to the terms of that *Original Plan* (the "Plan"). *See* Docket No. 59, 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 was filed on September 17, 2025, and served upon the Debtors via U.S. Mail first class, postage prepaid on the same date. *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

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).

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. 6, p. 6, Class 3A. Movant asserts a secured claim against the Vehicle in the amount of $21,211.01 as of September 5, 2025. *See* Docket No. 59, p. 8. The claim is swelling by the day due to an absence of post-petition payments by the Debtors. *See id.* The payments to Movant on the Vehicle pursuant to the underlying loan agreement are tardy by three (3) months. *See id.*, p. 9. One (1) post-confirmation payment of $688.46 and two (2) post-confirmation payments of $660.47 have not been made for a total post-petition delinquency of $2,009.40. *See id.* It appears that the Debtors' last monthly payment was received by Movant on June 27, 2025. *See id.*, p. 8. Additionally, there is no evidence that the Debtors have insurance on the Vehicle.

In light of the Debtors' 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).

9:00 AM

CONT... **Jason Alexander Balcena and Monica Felix Balcena** **Chapter 13**

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

Debtor(s):

Jason Alexander Balcena	Represented By Leon D Bayer Christopher D Cantore

Joint Debtor(s):

Monica Felix Balcena	Represented By Leon D Bayer Christopher D Cantore

Movant(s):

Global Lending Services LLC	Represented By Kirsten Martinez

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM
9:24-10921 Joe Angus McKenna and Ruth Allison McKenna **Chapter 13**

#9.00 Hearing re: [22] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 317 East Prune Avenue Lompoc CA 93436

Docket 22

Tentative Ruling:

October 21, 2025

Appearances waived. The Court will grant the Motion's request that it determine that the recording of the Trustee's Deed Upon Sale did not violate the automatic stay, pursuant to 11 U.S.C. § 362(b)(3) and Cal. Civ. Code § 2924h(c). Movant to lodge a conforming order within 7 days.

Background

The Property and Foreclosure Efforts

In 2010, Joe Angus McKenna and Ruth Allison McKenna (jointly, the "Debtors") obtained a loan secured by a deed of trust for real property located 317 E Prune Avenue, Lompoc, CA 93436 (the "Property"). *See* Docket No. 22, *Supplemental Declaration of Olivia Reyes* (the "Reyes Declaration"), p. 1, lines 16-20. **[FN 1]** The Reyes Declaration provides that the Debtors "defaulted on the loan and foreclosure proceedings began in 2018." *See id*., lines 21-22. The Reyes Declaration provides that the trustee under the deed of trust on the Property began foreclosure proceedings and set a foreclosure sale date of August 8, 2018. *See id*., lines 21-24.

The Debtors' Filing History

On August 7, 2018, the Debtors filed a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:18-bk-11288-DS (the "First Case"), Docket No. 1. The First Case was dismissed for failure to file schedules, statements, and/or a plan on August 27, 2018, and was closed on October 12, 2018.

See id., Docket Nos. 10 and 15, respectively.

On October 16, 2018, the Debtors filed another voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:18-bk-11695-DS (the "Second Case"), Docket No. 1. The Second Case was dismissed on November 5, 2018, for failure to file schedules, statements, and/or a plan, and was closed on December 26, 2018. *See id*., Docket Nos. 10 and 14, respectively.

On December 26, 2018, the Debtors filed another voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:18-bk-12114-DS (the "Third Case"), Docket No. 1. The Third Case was dismissed on January 14, 2019, for failure to file schedules, statements, and/or a plan, and was closed on January 30, 2019. *See id*., Docket Nos. 10 and 14, respectively.

The Reyes Declaration provides that "[o]n February 15, 2024, the trustee recorded a Notice of Default," and "then recorded Notice of Trustee's Sale on May 29, 2024, setting a foreclosure sale date of June 26, 2024," and that "[t]he sale took place on June 26, 2024." *See* Reyes Declaration, p. 2, lines 16-21.

On June 26, 2024, the Debtors filed a fourth voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:24-bk-10717-RC (the "Fourth Case"), Docket No. 1. The Fourth Case was dismissed on July 29, 2024, for failure to file schedules, statements, and/or a plan despite being granted an extension to file case commencement documents. *See* Docket Nos. 9 and 12, respectively. On August 9, 2024, the Fourth Case was closed. *See* Docket No. 16.

On August 13, 2024, the Debtors filed a fifth voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:24-bk-10921-RC ("This Case"), Docket No. 1. On August 16, 2024, Movant recorded against the Property that Trustee's Deed Upon Sale (the "Deed"). *See* Reyes Declaration, p. 3, line 11; *see also* Docket No. 22 at *Exhibit 1*. This Case was dismissed on August 30, 2024, for failure to file schedules, statements, and/or a plan, and was closed on September 12, 2024. *See* Docket Nos. 10 and 14, respectively.

On September 20, 2024, Movant commenced an unlawful detainer action against the

Debtors in the Superior Court of California, County of Santa Barbara (the "UD Action"). *See* Docket No. 22 at *Exhibit 5*. According to the Reyes Declaration, "[a]t no time did Movant have any notice or information that Debtors had filed bankruptcy in June 2024 and August 2024." *See* Reyes Declaration, p. 3, lines 14-16. The Reyes Declaration provides that at a settlement conference in the UD Action on January 15, 2025, the Debtors, "for the first time, informed Movant that they had filed a bankruptcy petition on June 26, 2024." *See id*., p. 4, lines 15-16.

On January 30, 2025, Movant filed that *Motion to Reopen Case* to reopen the Fourth Case "so that they may seek retroactive relief from the automatic stay and more specifically an order confirming that no stay was in effect at the time of the sale." *See* Fourth Case, Docket No. 17, p. 2, lines 5-8. On March 18, 2025, the Court issued an order to reopen the Fourth Case. *See* Docket No. 28. On May 20, 2025, Movant filed that *Amended Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (with supporting declarations) (Real Property)*. *See* Fourth Case, Docket No. 38. On August 29, 2025, the Court issued an order granting Movant's request under 11 U.S.C. § 362(d)(1) "(1) to lift the automatic stay for cause as to bad faith, and (2) annul the stay to the petition date for cause, any postpetition actions taken by Movant to enforce its remedies shall not constitute a violation of the stay." *See* Fourth Case, Docket No. 47, pp. 11, 16-17. The order also provided, "the Court will not annul or grant relief from the automatic stay in the Fifth Case or in The Sixth Case, as a motion requesting the same must be filed in those cases." *See id*., p. 5.

On March 5, 2025, the Debtors filed another voluntary petition for relief under Chapter 13 of Title 11 of the United States Code. *See* Case No. 9:25-10292-RC (the "Sixth Case"), Docket No. 1. The Sixth Case was dismissed on March 24, 2025, for failure to file schedules, statements, and/or a plan, and was closed on April 1, 2025. *See id*., Docket Nos. 8 and 12, respectively.

On September 11, 2025, Movant filed that *Amended Motion to Reopen Chapter 13 Case* (the "Motion to Reopen") to reopen This Case "to avoid any appearance of any action that violated or benefitted from any violation of the automatic stay in this case as to the recording of the Trustee's Deed Upon Sale during the stay." *See* Docket No.

17, p. 2. On September 22, 2025, the Motion to Reopen was granted "for the sole purpose of validating the recording of a trustee's Deed Upon Sale." *See* Docket No. 20, pp. 1-2.

The Motion

Before the Court is that *Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (with supporting declarations) (Real Property)* (the "Motion") filed by Movant on September 25, 2025. *See* Docket No. 22.

Through the Motion, Movant seeks a determination that the issuance and recording of the Deed post-petition was not a violation of the stay in relation to This Case, pursuant to Cal. Civ. Code § 2924h(c) and 11 U.S.C. § 362(b)(3). *See id*., *Memorandum of Points and Authorities in Support of Motion for Relief from the Automatic Stay under 11 USC Section 362* (the "Memo"), p. 11. Alternatively, Movant seeks a lifting of the automatic stay in This Case on the grounds that (1) Movant's interest in the Property is not adequately protected by an adequate equity cushion, (2) the case was filed in bad faith, (3) pursuant to 11 U.S.C. § 362(d)(2)(A), the Debtor has no equity in the Property; and, pursuant to 11 U.S.C. § 362(d)(2)(B), the Property is not necessary to an effective reorganization, and (4) 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 that involved multiple bankruptcy cases affecting the Property. *See id*.; *see also* Docket No. 22, pp. 3-4. Movant also seeks an annulment of the automatic stay in the case that the Court finds that the post-petition recording of the Deed violated the stay. *See* Memo, p. 7. Finally, Movant asserts that the 14-day stay prescribed by FRBP 4001(a)(3) does not apply "as the stay was previously terminated." *See id*., p. 11.

The Motion and notice thereof were served upon the Debtors via U.S. Mail, first class, postage prepaid on September 25, 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* Docket No. 22, *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

9:00 AM
CONT... **Joe Angus McKenna and Ruth Allison McKenna** **Chapter 13**

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, and takes the Debtors' non-opposition as acquiescence to the relief requested in the Motion.

Analysis

Did the Recordation of the Deed Violate the Automatic Stay in This Case?— 11 U.S.C. § 362(b)(3) and Cal. Civ. Code 2924h(c)

Pursuant to 11 U.S.C. § 362(b)(3), "[t]he filing of a petition under section 301 [] of this title [] does not operate as a stay [] under subsection (a) of this section, of any act to perfect, or to maintain or continue the perfection of, an interest in property to the extent that the trustee's rights and powers are subject to such perfection under section 546(b) of this title." "Section 546(b) allows perfection to relate back according to 'generally applicable law that permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of such perfection.' The phrase 'generally applicable law' relates to state law." *In re Planned Protective Services, Inc.*, 130 B.R. 94, 97 (Bankr. C.D. Cal. 1991).

Pursuant to Cal. Civ. Code § 2924h(c), "the trustee's sale shall be deemed final upon the acceptance of the last and highest bid, and shall be deemed perfected as of 8 a.m. on the actual date of sale if the trustee's deed is recorded within 21 calendar days after the sale." However, if "an eligible bidder submits a written notice of intent to bid pursuant to [§ 2924m(c)(2)], the trustee's sale shall be deemed perfected as of 8 a.m. on the actual date of sale if the trustee's deed is recorded within 60 calendar days after the sale or the next business day following the 60th day if the county recorder in which the property is located is closed on the 60th day." Cal. Civ. Code § 2924h(c).

In a case decided under California's prior version of the foreclosure statutes, which included only a 15 day relation-back period, "[t]he BAP held that the relation back effect of Civil Code § 2924h(c) operated to perfect the sale on the actual date of the sale notwithstanding the postpetition recordation of the deed and therefore did not violate the stay." *In re Ford*, 2022 WL 17742285, at *3 (Bank. C.D. Cal. December 15, 2022) (citing *In re Bebensee-Wong*, 248 B.R. 820 (B.A.P. 9th Cir. 2000)). "[T]he purpose of Civil Code § 2924h(c) is to ensure that [] a debtor cannot avoid a trustee's sale by filing a bankruptcy petition after the trustee's sale but prior to the date the trustee's deed on sale is recorded." *Id*. "Hence, the relation back effect of Civil Code § 2924h(c) operates to perfect the trustee's sale on the actual date of sale. If the creditor acts within the statutory grace period, the foreclosure sale is deemed perfected as of 8:00 a.m. on the sale date, notwithstanding the intervening bankruptcy petition. The Court concludes that the result should be the same for the expanded 60-day statutory grace period provided in the current version of Civil Code § 2924h(c). If the recording is done within the statutory grace period, the sale is perfected as of the sale date." *Id.* (internal citations omitted); *see also In re Stephens*, 661 B.R. 948 (Bankr. C.D. Cal. 2024) (holding that postpetition recordation of qualifying overbid at foreclosure sale filed within 60 day relation-back period did not violate stay).

Here, the non-judicial foreclosure sale of the Property took place on June 26, 2024. The Reyes Declaration provides that "2 Notices of Intent to Bid [were thereafter] received by the Trustee" from eligible bidders. *See* Reyes Declaration, p. 3, lines 13-14; *see also* Docket No. 22 at *Exhibits 3-4.* Since such notices were submitted, the Trustee's sale is be deemed perfected as of 8:00 a.m. on the date of sale, provided that the Deed is recorded within 60 calendar days after the sale. Movant recorded the Deed on August 16, 2024, within the 60-day window. Accordingly, the sale is deemed perfected as of 8:00 a.m. of June 26, 2024. The Debtors filed This Case on August 13, 2024. *See* Docket No. 1. Since the sale is deemed perfected prior to the Debtors' filing, the postpetition recordation of the Deed is not a violation of the stay.

Alternatively, even if the automatic stay were to apply, relief from the stay is appropriate under § 362(d)(1)

11 U.S.C. § 362(d)(1)—Lack of Adequate Protection

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

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CONT... **Joe Angus McKenna and Ruth Allison McKenna** **Chapter 13**

[] for cause, including the lack of adequate protection of an interest in property of such party in interest." 11 U.S.C. § 362(d)(1). While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *See id*. at 1400 n. 2. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *See id*.

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id*. at 1400. (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient equity cushion has been found to exist although not a single mortgage payment had been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

No analysis has been provided to support the request to grant relief for lack of adequate protection under 11 U.S.C. § 362(d)(1). For these reasons, the Motion is denied as to its request under 11 U.S.C. § 362(d)(1) insofar as it relates to lack of equity.

11 U.S.C. § 362(d)(1)—Bad Faith

"The debtor's lack of good faith in filing a bankruptcy petition has often been used as cause for removing the automatic stay." *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "The existence of good faith depends on an amalgam of factors and not upon a specific fact." *Id*. "The bankruptcy court should examine the debtor's financial status, motives, and the local economic environment." *Id*. The Ninth Circuit cited the Ninth Circuit BAP regarding bad faith as follows: "If it is obvious that a debtor is attempting unreasonably to deter and harass creditors in their bona fide efforts to realize upon their securities, good faith does not exist. But if it is apparent that the purpose is not to delay or defeat creditors but rather to put an end to long delays, administration expenses … to mortgage foreclosures, and to invoke the operation of the [bankruptcy law] in the spirit indicated by Congress in the legislation … good faith cannot be denied." *Id*.

"Good faith is lacking only when the debtor's actions are a clear abuse of the bankruptcy process." *Id*. (citing *In re Thirtieth Place, Inc.*, 30 B.R. 503, 505 (B.A.P. 9th Cir. 1983)) (quotation omitted).

Movant argues that This Case was filed in bad faith because the Debtors have filed other bankruptcy cases in which they asserted an interest in the Property. *See* Docket No. 22, p. 10. Movant further argues that the Debtors' bad faith is "evidenced by [the Debtors'] failure to file any schedules in either the June 2024 bankruptcy case, or the August 2024 bankruptcy case" as well as their "three 2018 bankruptcy filings, where they filed a shell bankruptcy the day before the foreclosure sale and did not file any schedules or participate in the bankruptcy proceedings in any way." *See* Reyes Declaration, p. 5.

At the time of the filing of This Case, the Debtors had filed six (6) prior cases dating back to 1992. The most recent case was dismissed on July 29, 2024, just a few weeks prior to This Case.

The sole reason for filing This Case is clear; the Debtors sought to stave off the perfection of the foreclosure sale. Pursuant to Cal. Civ. Code § 2924m(c)(4)(A)(iii), the sale was deemed final on August 12, 2024. *See* Memo, p. 5, lines 21-24. The Debtors filed This Case the following day, August 13, 2024, before Movant received and recorded the Deed on August 16, 2024. *See* Docket No. 1; *see also* Reyes Declaration, p. 3, lines 14-15. The Debtors also have a history of utilizing bankruptcy as a tactic to stall the foreclosure efforts against the Property. In none of the six (6) Chapter 13 cases that the Debtors have filed since 2018, including This Case, have the

Debtors ever made a serious attempt to advance the cases. The Debtors have not filed schedules or a plan in any of their Chapter 13 cases, and so parties-in-interest are unable to test whether the Debtors were ever even eligible for Chapter 13. The Court finds that the Debtors filed This Case in bad faith, and, coupled with the annulment of the stay, *infra*, finds cause to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

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."

Similarly to the request that the Court lift the stay under 11 U.S.C. § 362(d)(1) for lack of adequate protection, no analysis has been provided to support the request to grant relief under 11 U.S.C. § 362(d)(2). The Motion is denied as to its request that the Court lift the automatic stay pursuant to 11 U.S.C. § 362(d)(2).

11 U.S.C. § 362(d)(4)

Movant asserts that the 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. *See* Docket No. 22, p. 10. Pursuant to 11 U.S.C. § 362(d)(4), "with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved [] multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d)(4).

"[A] party seeking in rem relief under § 362(d)(4) must establish, and the bankruptcy court must find, that the movant is a creditor whose claim is secured by an interest in the property in question." *In re Ellis*, 523 B.R. 673, 679 (B.A.P. 9th Cir. 2014) (citing *In re Laconico*, 2014 WL 3687202, at *1 (Bankr. N.D. Cal. July 24, 2014); *In re*

Robles, 2014 WL 3715092, at *1 (Bankr. N.D. Cal. July 24, 2014)). "This view is also shared by a leading treatise on bankruptcy law: 'the relief under § 362(d)(4) is available only to a creditor whose claim is secured by an interest in real property.'" *Id*. (citing 3 *Collier on Bankruptcy* ¶ 362.05[19][a] (16th 2013)).

The Ninth Circuit BAP reversed an order granting stay relief to a foreclosure sale purchaser under § 362(d)(4) on the ground that a foreclosure sale purchaser "'holds no claim secured by an interest in the subject property'" because "'a foreclosure sale … by definition would extinguish the security interest … in the property.'" *Id*. at 679-680 (citing *In re McCray*, 342 B.R. 668, 670 (Bankr. D.D.C. 2006)).

Since Movant is a foreclosure sale purchaser who purchased the Property at the prepetition foreclosure sale on June 26, 2024, the Court cannot find that Movant is a creditor whose claim is secured by an interest in the Property. The Motion is denied as to its request that the Court lift the automatic stay pursuant to 11 U.S.C. § 362(d)(4).

Annulment of the Stay

"On 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 [] annulling [] such stay [] for cause." 11 U.S.C. § 362(d)(1). "The general trend has been to focus on two factors in determining whether cause exists to annul the stay: '(1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor.'" *In re Fjeldsted*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003) (citation omitted). Courts also consider the following factors when deciding whether to annul the stay: (1) the number of filings by the debtor; (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors; (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser; (4) the debtor's overall good faith (totality of the circumstances test); (5) whether creditors knew of stay but nonetheless took action, thus compounding the problem; (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules; (7) the relative ease of restoring parties to the *status quo ante*; (8) the costs of annulment to debtors and creditors; (9) how quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct; (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief; (11) whether annulment of the stay will cause irreparable injury to the debtor; and (12) whether stay relief will promote judicial economy or other efficiencies. *Id*. at 25.

Courts generally balance all these factors, but not all factors need to favor annulment. *See In re Chelsey*, 2015 WL 845568, at *6-7 (B.A.P. 9th Cir. 2015) (upholding annulment after "debtor filed three skeletal bankruptcy cases, all of which were dismissed based on her failure to file documents and which were filed to prevent a foreclosure sale of the property," which implicated *Fjeldsted* factors one, two, and six).

(1) Number of Filings

Less than two months before the filing of This Case, the Debtors filed the Fourth Case. Prior to the Fourth Case, the Debtors filed the First Case, the Second Case, and the Third Case in 2018. In its order granting Movant's motion for relief from stay in the Fourth Case, the Court observed that "the reasons for the 2018 filings and [the Fourth Case] appear to have been similar, to stall [the creditor's] foreclosure efforts." *See* Fourth Case, Docket No. 47, p. 13. Pursuant to Cal. Civ. Code § 2924m(c)(4)(A)(iii), the sale was deemed final on August 12, 2024. *See* Memo, p. 5, lines 21-24. The Debtors filed This Case the following day, August 13, 2024, before Movant received and recorded the Deed on August 16, 2024. *See* Docket No. 1; *see also* Reyes Declaration, p. 3, lines 14-15. It appears that the Debtors filed This Case to stall Movant from perfecting the foreclosure sale. This factor breaks in favor of granting Movant's request.

(2) Whether, in a repeat filing case, the circumstances indicate an

Here, the Debtors filed This Case the day after the sale was deemed final, and three days before Movant received and recorded the Deed. The filing of This Case was to delay Movant from perfecting the foreclosure sale. As stated *supra*, this Court found that the Fourth Case and the 2018 cases were filed to delay the creditor's foreclosure efforts. This factor breaks in favor of granting the relief requested.

(3) A weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser

Here, there is prejudice and harm to a bona fide purchaser, Movant. Movant is not a creditor of the Debtors, but instead purchased the Property at a non-judicial foreclosure sale without knowledge of This Case. Movant was forced to file the UD Action against the Debtors, is currently incurring costs, and asserts it is losing $98.33 per day due to the Debtors' occupancy of the Property and their failure to pay rent. *See* Docket No. 22 at *Exhibit 5*, p. 2, lines 25-28. Absent annulment, Movant may be required obtain and re-record a new Trustee's Deed Upon Sale out of an abundance of caution to ensure perfection of the foreclosure sale. There is certainly prejudice to Movant, and the presence of that prejudice favors annulment of the stay.

(4) The Debtor's overall good faith (totality of the circumstances test)

As stated *supra*, the Court does not find that the Debtors filed This Case in good faith. This factors weighs in favor of annulment.

(5) Whether creditors knew of stay but nonetheless took action, thus compounding the problem

Movant was not aware of This Case when it engaged in the foreclosure sale and recorded the Deed. In fact, Movant claims it did not receive notice of the filing of This Case until months later in a settlement conference related to the UD Action after This Case was both dismissed and closed. It is also not clear that Movant or the creditor were aware that This Case had been filed when the foreclosure sale was conducted. This factor weighs in favor of annulment.

(6) Whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules

The Debtors have not complied with the Bankruptcy Code and Rules. The Debtors failed to file schedules or a plan of reorganization for the 2018 cases, the Fourth Case, and This Case. This factor weights in favor of annulment.

(7) The relative ease of restoring parties to the *status quo ante*

Here, this factor weighs in favor of annulment because it is difficult to restore the parties to the *status quo ante*. *See In re Khan*, 2019 U.S. Dist. LEXIS 227758, at *24 (C.D. Cal. 2019). The sale took place on June 26, 2024, and is deemed perfected on the same date, pursuant to 11 U.S.C. § 362(b)(3) and Cal. Civ. Code § 2924h(c). This factor weighs in favor of annulment.

(8) The costs of annulment to debtors and creditors

If annulment is granted, the Debtors will suffer harm in that their loss of the Property will have been recognized as final and complete. This cost is high to the Debtors to the extent that real property is unique, and the sentimental value the Debtors may have in the Property. That said, the Debtors claim to have $648,900.00 in equity in the Property, some or most of which they may be entitled to. *See* Fourth Case, Docket No. 34, p. 3. This factor weighs in favor of granting annulment.

(9) How quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct

Shortly after learning of the Fourth Case and This Case, Movant moved to reopen the Fourth Case and, in its motion for stay relief, requested that the Court grant relief not only in the Fourth Case, but also in This Case and the Sixth Case. *See* Fourth Case, Docket No. 38, Continuation page re relief requested. Although the Court granted stay relief and annulment in the Fourth Case, it expressly stated "the Court will not annul or grant relief from the automatic stay in the [This Case] or in The Sixth Case, as a motion requesting the same must be filed in those cases." *See id*., Docket No. 47, p. 5. Shortly after issuance of that order, Movant moved to reopen This Case and sought relief and annulment here as well.

Movants acted quickly, whereas the Debtors did not promptly act to set aside the sale. The Debtors failed to inform Movant for months of the Fourth Case and This case, despite the ongoing UD Action. The Debtors have done nothing to set aside any violative conduct regarding the Property that the Court is aware of. This factor weighs in favor of annulment.

(10) Whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief

As stated *supra*, Movant took prompt steps to gain relief and did not continue in violation of the stay. This factor weighs in favor of annulment.

(11) Whether annulment of the stay will cause irreparable injury to the debtor

Annulment of the stay will result in the sale of the Property being perfected, and the

Debtors will fully lose the Property. However, the Debtors' loss of the Property appears to have been inevitable, as the Property has been in foreclosure since 2018, and the Debtors do not appear to have any ability to recover or prevent foreclosure. What is more, as stated *supra*, the Debtors claim $648,900.00 in equity in the Property, some or most of which they may be entitled to. Still, real property is unique, and the loss of the Property would be accompanied by a sentimental loss to the Debtors, even if the loss is a gain economically. This factor, at best, when viewed most favorably to the Debtors, weighs slightly against annulment. However, the Court finds the fact here is neutral due to the likely foreclosure of the Property and the stated equity the Debtors enjoy in the Property.

(12) Whether stay relief will promote judicial economy or other efficiencies

Here, annulment will promote judicial economy, as it will likely prevent the Debtors from filing more petitions as a means of delay regarding Movant's efforts to obtain possession of the Property. Annulment will also eliminate any need for Movant to obtain and re-record a new Trustee's Deed Upon Sale. This factor weighs in favor of annulment.

In sum, at least eleven (11) of the twelve (12) *Fjeldsted* factors weigh in favor of annulling the stay to validate (or at least remove any doubt regarding) the perfection of the foreclosure sale. As such, the Court will annul the stay in This Case.

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).

Pursuant to this Court's discretion, the 14-day stay prescribed by FRBP 4001(a)(3) is waived.

9:00 AM

CONT... **Joe Angus McKenna and Ruth Allison McKenna** **Chapter 13**

Conclusion

The Court grants the Motion's request that it determine that Movant's recording of the Deed was not a violation of the stay pursuant to 11 U.S.C. § 362(b)(3) and Cal. Civ. Code § 2924h(c). Alternatively, even if the stay were to apply, the Court grants the Motion's request for relief under 11 U.S.C. § 362(d)(1) to (1) lift the automatic stay for cause as to bad faith, and (2) annul the stay for cause, such that any postpetition actions taken by Movant to enforce its remedies shall not be a violation of the stay.

[FN 1] Unless otherwise stated, all references to the Docket refer to the case docket for Case No. 9:24-bk-10921-RC.

Party Information

Debtor(s):

Joe Angus McKenna	Pro Se

Joint Debtor(s):

Ruth Allison McKenna	Pro Se

Movant(s):

Hollyvale Rental Holdings, LLC	Represented By Sam Chandra

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM
9:24-10115 Kimberly Erin Smith **Chapter 13**

#10.00 Hearing re: [57] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 2286 North Rockdale Avenue, Simi Valley, CA 93063

Docket 57

Tentative Ruling:

October 21, 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.

Wells Fargo Bank, N.A. as Trustee for Harborview Mortgage Loan Trust 2006-10 ("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 2286 North Rockdale Avenue, Simi Valley, CA 93063 (the "Property") of Kimberly Erin Smith (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *4th Amended Chapter 13 Plan* (the "Plan"). *See* Docket No. 57, *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 September 26, 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*

9:00 AM
CONT... **Kimberly Erin Smith** **Chapter 13**

Service of Document, p. 67.

On October 7, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay* (the "Response"). *See* Docket No. 61. In the Response, the Debtor asserts that (1) the Debtor will pay $7,940.62 by October 14, 2025, (2) the Debtor has $370,200.00 in equity in the Property, and (3) the Property is necessary for an effective reorganization because it is the Debtor's residence. *See id.*

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).

"'The issues of adequate protection and equity in the property are irrelevant in the face of post-confirmation payment defaults because creditors are entitled to rely upon the debtors' responsibilities to make their post-confirmation payments. The debtors are not required to remain in Chapter 13 if they cannot satisfy the obligations which they proposed as feasible and which they voluntarily assumed.'" *In re Williams*, 68 B.R. 442, 443 (Bankr. M.D. Ga. 1987)(citing *In re Davis*, 64 B.R. 358, 359-360 (Bankr. S.D.N.Y. 1986)). "Strictly speaking [], adequate protection is only intended to protect a creditor during the period between the filing of the petition and plan confirmation." *In re Dumbuya*, 428 B.R. 410, 416 (Bankr. N.D. Oh. 2009)(citing *In re Walters*, 203 B.R. 122, 123-124 (Bankr. S.D. Ill. 1996)). "Once [] a plan is confirmed by the court a creditor seeking relief from the stay, based upon a debtor's default in payment under a plan, must establish that the debtor's breach of the plan, itself, provides 'cause' to lift the stay. The issue of 'adequate protection' becomes moot." *Id.* (citing *In re Schultz*, 325 B.R. 197, 201 (Bankr. N.D. Oh. 2005)).

Under the terms of the Plan, the Debtor is required to make regular payments to

9:00 AM
CONT... Kimberly Erin Smith Chapter 13

Movant under the terms of the prepetition lending agreement. *See* Docket No. 44, pp. 5-6, Class 2. Movant asserts that the Debtor defaulted on Plan payments consisting of four (4) unpaid postpetition preconfirmation payments of $1,881.50 and one (1) postpetition postconfirmation payment of $1,881.50. *See* Docket No. 57, p. 9. Including advances in the amount of $1,500.00 and less a suspense account of $1,466.88, Movant asserts that there is a total postconfirmation delinquency of $9,440.62 (as of the date of the Motion) with a payment of $1,881.50 becoming due October 1, 2025. *See id.* According to the Motion, the last monthly payment of $1,682.00 was received by Movant on July 17, 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 four (4) postpetition 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):

Kimberly Erin Smith	Represented By Kenneth H J Henjum

Movant(s):

Wells Fargo Bank, N.A. as Trustee	Represented By Sean C Ferry Dane W Exnowski Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM

CONT... **Kimberly Erin Smith** **Chapter 13**

9:00 AM
9:24-11424 Arberdella Dudley **Chapter 13**

#11.00 CONT'D Hearing re: [36] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1503 Torero Drive, Oxnard, CA 93030

fr. 9-9-25,

Docket 36

Tentative Ruling:

October 21, 2025

Appearances waived.

Counsel for Movant and the Debtor appeared at the September 9, 2025, hearing and requested a continuance to allow the parties to discuss an adequate protection agreement. No adequate protection agreement has been filed to date. The Motion is granted for the reasons set forth in the September 9, 2025, tentative ruling.

September 9, 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 requests that the Court terminate the codebtor stay and waive Fed. R. Bankr. P. 4001(a)(3). Movant to upload a conforming order within 7 days.

Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust Series 2006- NC2 Asset-Backed Pass-Through Certificates ("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 1503 Torero Drive, Oxnard, CA 93030 (the "Property") of Arberdella Dudley (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *2nd 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.

9:00 AM
CONT... Arberdella Dudley Chapter 13

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 codebtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (5) if relief is not granted, adequate protection be ordered. *See id.*, p. 5, *Continuation to Page 5*.

Notice

Under LBR 4001-1(1)(C)(iii), the motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on any applicable co-debtor where relief is sought from the co-debtor stay under 11 U.S.C. §§ 1201 or 1301. Pursuant to this Court's LBR 9013-3(d)(2)(B), service by U.S. Mail must list the exact street address of each person or entity served.

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on August 19, 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* Docket No. 36, *Proof of Service of Document*, p. 12. The Debtor does not identify a codebtor on that *Schedule H: Your Codebtors* or include a non-filing spouse on that *Schedule I: Your Income*. *See* Docket No. 12, *Schedule H: Your Codebtors*, p. 1; *Schedule I: Your Income,* p. 2. The Deed of trust filed in support of the Motion lists "Jonathan Dudley" as a "Borrower". *See* Docket No. 36, at *Exhibit 1.* However, Jonathan Dudley does not appear as being served on the *Proof of Service of Document. See* Docket No. 36, *Proof of Service of Document,* p. 12. Therefore, service upon the non-filing codebtor was improper.

Response

On August 26, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay and Declaration(s) In Support* (the "Response'). *See* Docket No. 38. In the Response, the Debtor asserts that the Debtor and Movant are working on an adequate protection agreement. *See id.*, p. 2.

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 Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 25, pp. 5-6, Class 2. Movant asserts that the Debtor has not made Plan payments consisting of one (1) post-petition, preconfirmation payment of $3,219.46 and two (2) postpetition, postconfirmation payments of $3,219.46 each. *See* Docket No. 36 p. 9. Less a suspense account balance of $1,295.00, Movant asserts that there is a total postpetition delinquency of $8,363.38 (as of the date of the Motion) with a payment of $3,219.46 becoming due September 1, 2025. *See id*. According to the Motion, the last monthly payment of $1,296.00 was received by Movant on August 6, 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 mortgage payments pursuant to the terms of the Plan. Therefore, the Motion will be granted.

As to the request to terminate the co-debtor stay pursuant to of 11 U.S.C. § 1201(a) or § 1301(a), the non-filing codebtor was not served with the Motion. Therefore, the request to terminate the codebtor stay is denied.

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.

9:00 AM
CONT... **Arberdella Dudley** **Chapter 13**

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):

Arberdella Dudley	Represented By Joshua Sternberg

Movant(s):

Wells Fargo Bank N.A., As trustee	Represented By Troy Gilbert Jacob Cassandra J Richey

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM

9:25-10773 Miguel Nava Felix **Chapter 13**

#12.00 Hearing re: [22] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1311 Kingswood Way, Oxnard, CA 93030 in addition to Motion for Relief from Co-Debtor Stay

Docket 22

Tentative Ruling:

October 21, 2025

Appearances are 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)(3) is denied. Movant to upload a conforming order within 7 days.

The Bank Of New York Mellon F/K/A The Bank Of New York As Successor In Interest
To JP Morgan Chase Bank, N.A. As Trustee For Bear Stearns ALT-A Trust, Mortgage Passthrough Certificates Series 2005-7 ("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 1311 Kingswood Way, Oxnard, CA 93030 (the "Property") of Miguel Nava Felix (the "Debtor") on the grounds that the Debtor has failed to make postpetition mortgage payments as they became due under the *Original Chapter 13 Plan* (the "Plan"). *See* Docket No. 22, *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 co-debtor stay of 11 U.S.C. § 1301(a), (4) waiver of the 14-day stay pursuant to Fed. R. Bankr. P. 4001(a)(3), and (5) if relief is not granted, adequate protection be ordered. *See id.,* p. 5.

Notice

9:00 AM
CONT... **Miguel Nava Felix** **Chapter 13**

The Motion and notice thereof were served upon the Debtor and non-filing co-debtor via U.S. Mail First class, postage prepaid on September 23, 2025, notifying the Debtor and non-filing co-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. 40. 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, 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 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 Debtor is required to make regular payments to Movant under the terms of the prepetition lending agreement. *See* Docket No. 6, p. 6, Class 2. Movant asserts that the Debtor has not made Plan payments consisting of three (3) postpetition preconfirmation payments of $3,965.18. *See* Docket No. 22, p. 9. Movant asserts that there is a total postpetition delinquency of $11,895.54 (as of the date of the Motion) with a payment of $3,965.18 becoming due October 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 no less than three (3) postpetition preconfirmation mortgage payments pursuant to the terms of the Plan. Therefore, the Motion will be granted.

9:00 AM

CONT... Miguel Nava Felix **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.

Party Information

Debtor(s):

Miguel Nava Felix	Represented By Jeffrey J Hagen

Movant(s):

The Bank Of New York Mellon	Represented By Joseph C Delmotte

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM

9:25-11076 **Henry Grissom, ll** **Chapter 13**

#13.00 Hearing re: [28] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1948 Rory Lane #5, Simi Valley, CA 93063

Docket 28

Tentative Ruling:

October 21, 2025

Appearances required.

Roger Anderson Trustee of the RWA Trust Dated 3/14/2014 ("Movant") seeks relief as to the residential property located at 1948 Rory Lane #5, Simi Valley, CA 93063 (the "Property") through an order pursuant to 11 U.S.C. § 362(d)(1) on the grounds that 'cause' exists as to the debtor Henry Grisson, II (the "Debtor") on the grounds that (1) Movant's interest in the Property is not protected by an adequate equity cushion, (2) the case was filed in bad faith, (3) Debtor has failed to make postpetition mortgage payments and the loan matured on February 1, 2025. *See* Docket No. 28, *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), (4) if relief from stay is not granted, adequate protection be ordered, and (5) the order be binding in any and all chapters following any subsequent conversion of this case under a different chapter of Title 11 of the United States Code, unless a specific exception has been provided. *See id.,* p. 5; *Memorandum of Points and Authorities*, p. 9.

Notice

The Motion and notice thereof were served upon the Debtor via U.S. Mail First class, postage prepaid on September 19, 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. 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

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."

While the term "adequate protection" is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). "Equity cushion" is defined as the value in the property, above the amount owed to the creditor with a secured claim, that will shield that interest from loss due to any decrease in the value of the property during the time the automatic stay remains in effect. *Id.* at 1397. "Equity," as opposed to "equity cushion," is the value, above all secured claims against the property that can be realized from the sale of the property for the benefit of the unsecured creditors. *Id.*

"Although the existence of an equity cushion as a method of adequate protection is not specifically mentioned in § 361, it is the classic form of protection for a secured debt justifying the restraint of lien enforcement by a bankruptcy court." *Id.* (internal citations omitted). "In fact, it has been held that the existence of an equity cushion alone, can provide adequate protection." *Id.* (internal citations omitted). "A sufficient equity cushion has been found to exist although not a single mortgage payment had been made." *Id.* (internal citations omitted). "A 20% cushion has been held to be an adequate protection for a secured creditor." *Id.* at 1401. (internal citations omitted).

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).

"As a general rule, chapter 13 debtors may not modify the rights of holders of claims secured solely by a security interest in real property that is the debtor's principal residence. Section 1322(b)(2). However, § 1322(c)(2) carves out an exception to the anti-modification rule against home mortgages, allowing modification if the last payment on the original payment schedule for the mortgage is due prior to the date on which the final plan payment is due. Several courts have held that § 1322(c)(2) applies to balloon mortgage payments that mature prepetition, and that § 1322(c)(2) allows chapter 13 debtors to cure such defaults by providing for full payment to the mortgagee over the life of the plan." *In re Palacios*, 2013 WL 1615790, at *4 (9th Cir. BAP Apr. 15, 2013). "[11 U.S.C.] § 1322(c)(1), which provides that, notwithstanding § 1322(b)(2) and applicable nonbankruptcy law, a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under § 1322(b)(3) or (5), until the residence is sold at a foreclosure sale." *Id. citing* 8 Collier on Bankruptcy ¶ 1322.07[2] (Alan N. Resnick & Henry J. Sommer, eds., 16th ed. 2012).

Here, Movant first contends that its interest in the Property is not adequately protected. Movant asserts that the loan became all due and payable because it matured on February 1, 2025. *See* Docket No. 28, *Declaration of Roger Anderson, Trustee of the RWA Trust Dated 3/14/2014* (the "Anderson Declaration")*,* ¶ 5. Movant recorded a notice of default on April 14, 2025, and recorded notice of sale on July 17, 2025. *See id.*, ¶¶6, 8. In total, Movant asserts a secured claim against the Property in the amount of $358,335.41. *See id.*, ¶ 10. As of August 12, 2025, Movants asserts that the fair market value of the Property is $430,000.00 per a "signed purchase agreement from Debtor's broker". *See id.*, ¶ 9. Movant asserts that it maintains an equity cushion in the Property. *See* Docket No. 20, p. 8. The equity cushion in the Property exceeding Movant's lien is asserted to be "$25,474.30 (6.0% Equity Cushion) Minus Estimated Costs of Sale $34,400.00 (8% FMV) Equity in the Property ($8,925.70)". *See id., Memorandum of Points and Authorities*, p. 5. The

Court calculates the equity cushion in the Property exceeding Movant's lien to be $71,664.59 or 16.67%. Subtracting the total liens on the Property (including Movant's lien, the junior lien of the Wescom Central Credit Union in the amount of $29,307.93, the junior lien of Indian Oaks Homeowners Association in the amount of $16,882.36 in the amount of $16,882.36, and projected costs of sale 8% or $34,400.00), the Debtor's equity in the Property is negative $9,925.70. *See id.,* the Anderson Declaration, ¶ 7; *Exhibit 5.*

Movant second contends that the Debtor proposed that *Original Chapter 13 Plan* (the "Plan"), which does not provide for any payments to Movant "unless and until the Property is sold by the end of March 2026, and the Plan does not even require Debtor to take any specific actions if the Property is not sold by month 7". *See id., Memorandum of Points and Authorities*, p. 8. Pursuant to the terms of the Plan, the Debtor proposes to pay Movant's claim through the Plan in the amount of $321,225.27 in month seven. *See* Docket No. 25, pp. 2, 5-6, Class 3C. The Plan does not provide any information for the source of the payment of Movant's claim in month seven. *See id.*

Movant attaches an executed Notice of Default Purchase Agreement (the "Purchase Agreement") to the Motion. *See id.,* at *Exhibit 6.* The Purchase Agreement was prepared and signed on August 7, 2025, for a purchase price of $430,000.00, all cash, close of escrow 30 days after acceptance. *See id.* What is the status of the sale? According to the Purchase Agreement, the sale should have closed escrow by or before September 6, 2025.

According to the Debtor's schedules, the Debtor has $68.24 in net monthly income. *See* Docket No. 24, *Schedule I: Your Income; Schedule J: Your Expenses.* If the sale does not close, the Debtor has no ability to pay Movant's claim during the life of the Plan and there would be cause sufficient to lift the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Bad Faith

"The debtor's lack of good faith in filing a bankruptcy petition has often been used as cause for removing the automatic stay." *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "The existence of good faith depends on an amalgam of factors and not upon a specific fact." *See id.* "The bankruptcy court should examine the debtor's financial status, motives, and the local economic environment." *See id.* The Ninth Circuit cited the Ninth Circuit Bankruptcy Appellate Panel regarding bad faith as follows:

If it is obvious that a debtor is attempting unreasonably to deter and harass creditors in their bona fide efforts to realize upon their securities, good faith does not exist. But if it is apparent that the purpose is not to delay or defeat creditors but rather to put an end to long delays, administration expenses ... to mortgage foreclosures, and to invoke the operation of the [bankruptcy law] in the spirit indicated by Congress in the legislation ... good faith cannot be denied. *See id.*

"Good faith is lacking only when the debtor's actions are a clear abuse of the bankruptcy process." *See id.* (citing *In re Thirtieth Place, Inc.*, 30 B.R. 503, 505 (9th Cir. BAP 1983) (quotation omitted).

According to Movant, the bankruptcy case was filed in bad faith because (1) "despite Movant's loan maturing over 6 months ago, Debtor filed this bankruptcy on the eve of the foreclosure and has filed proposed [sic] a plan that does not properly treat Movant's fully secured and matured claim, and allows for much unreasonable delay", and (2) the Debtor contracted to sell the Property for $430,000.00 last month when his schedules, filed under the penalty of perjury, list the fair market value of the Property as $505,000.00. *See id., Memorandum of Points and Authorities*, pp. 8-9.

The Debtor's primary motivation in filing bankruptcy may be to stop the litigation regarding the Property. However, the Debtor lists $7,332.00 in priority claims and $39,990.00 in non-priority claims on his Schedule E/F, which he seeks to repay through the Plan. *See* Docket No. 1, *Schedule E/F*. Therefore, Movant has not established cause to grant relief under 11 U.S.C. § 362(d)(1) for bad faith.

4001(a)(3) Waiver

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.

9:00 AM

CONT... Henry Grissom, ll **Chapter 13**

Party Information

Debtor(s):

Henry Grissom ll — Represented By
Bryan Diaz

Movant(s):

Roger Anderson Trustee of the RWA — Represented By
Arnold L Graff

Trustee(s):

Elizabeth (ND) F Rojas (TR) — Pro Se

9:00 AM

9:25-11223 Maria Socorro Cabrera **Chapter 13**

#14.00 Hearing re: [14] Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 1828 Cottonwood Circle, Paso Robles, CA 93446

Docket 14

***** VACATED *** REASON: Case dismissed on 10/09/25.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Socorro Cabrera	Represented By Richard E Rossi

Movant(s):

Wilmington Trust, National	Represented By Cassandra J Richey

Trustee(s):

Elizabeth (ND) F Rojas (TR)	Pro Se

9:00 AM
9:25-11034 **Joseph Louis Cacho** **Chapter 7**

#15.00 CONT'D Hearing re: [26] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2024 Ford F150 Lightning XLT Pickup 4D 5 1/2 ft,
VIN: 1FTVW3LK1RWG09806

fr. 10-7-25,

Docket 26

Tentative Ruling:

October 21, 2025

Appearances waived.

Pursuant to the Court's tentative ruling of October 7, 2025, the Court requested further information as to Movant's relation to the lienholder. The Court provided Movant until October 14, 2025, to augment the record with this information, if any. *See* Docket No. 29. Movant has filed nothing in response. The Motion is denied without prejudice due to the Court's inability to connect Movant with the lienholder. Movant is to lodge a conforming order within 7 days.

October 7, 2025

Appearances required.

Background

On September 12, 2025, Ford Motor Credit Company, 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) and (d)(2) in relation to a 2024 Ford F150 Lightning XLT Pickup (the "Vehicle") of Joseph Louis Cacho (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) the Debtor filed a statement of intention that indicates the Debtor intends to surrender the Vehicle, 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. 26, 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 September 12, 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 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

As a threshold query, the Court notes that Movant is Ford Motor Credit Company LLC. *See* Docket No. 26, p. 1. The *California Motor Vehicle Lease Agreement* provides the lessor as Envision VTA FD Auto LLC. *See id.* The title for the Vehicle lists as the lienholder, HTD LSG LLC. *See id.* at *Exhibit 2*. The Debtor scheduled as the lessor, Lincoln Automotive Finance. *See id.* at *Exhibit 5*. It is unclear to the Court who in-fact the lessor of the Vehicle is, and whether Movant is in-fact a party-in-interest.

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 issues 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 $59,753.47 as of September 3, 2025. *See* Docket No. 26, p. 8. According to the Kelley Blue Book report, the Vehicle has a fair market value of $38,468.00. *See id.*, at *Exhibit 3*. As there exists no equity in the Vehicle, and because the instant case is one under Chapter 7, the Motion could be 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).

Here, Movant asserts a secured claim against the Vehicle in the amount of $59,753.47. *See* Docket No. 26, at p. 8. Movant asserts that the Debtor is in arrears in the amount of $59,753.47. *See id.* It appears that the Debtor's last monthly payment of $599.40 was received by Movant on July 23, 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. *See id.* at *Exhibit 5*, p. 1.

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

The Court will inquire with Movant regarding the real party-in-interest issue raised *supra*.

Party Information

Debtor(s):

Joseph Louis Cacho Represented By

9:00 AM
CONT... **Joseph Louis Cacho** **Chapter 7**

Stephen L Burton

Movant(s):

Ford Motor Credit Company LLC — Represented By
Kristin A Schuler-Hintz

Trustee(s):

David Keith Gottlieb (TR) — Pro Se

9:00 AM

9:23-10779 Salim Shah Aimaq **Chapter 13**

#16.00 CONT'D Hearing fre: [51] Debtor's motion for authority to sell or refinance real property under LBR 3015-1(p)

fr. 9-18-25, 10-16-25,

Docket 51

Tentative Ruling:

October 21, 2025

Appearances required.

Party Information

Debtor(s):

Salim Shah Aimaq — Represented By David H Chung

Movant(s):

Salim Shah Aimaq — Represented By David H Chung

Trustee(s):

Elizabeth (ND) F Rojas (TR) — Pro Se

1:00 PM

9:25-10521 Dhananjay M. Ranat and Harsha D. Ranat **Chapter 7**

#17.00 Chapter 7 Trustee's Final Report, Application for Compensation and Application(s) for Compensation of Professionals filed on behalf of Trustee Nancy J. Zamora, Esq.. The United States Trustee has reviewed the Chapter 7 Trustee's Final Report

Docket 23

Tentative Ruling:

October 21, 2025

Appearances waived.

Before the Court is the *Trustee's Final Report* (the "Report") filed by the duly appointed Chapter 7 Trustee, Nancy J Zamora (the "Trustee"), for the bankruptcy estate of Dhananjay M. Ranat and Harsha D. Ranat on September 29, 2025. *See* Docket No. 23.

On September 29, 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. 24. On October 1, 2025, the Notice was served on the remaining mailing matrix by BNC notice. *See* Docket No. 25. 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 filing of the Report, the Trustee had $85,946.22 in cash on hand. *See* Docket No. 23, p. 1.

Through the Report, the Trustee, *inter alia*, seeks (1) the payment of the Trustee's statutory fee of $7,547.31 pursuant to 11 U.S.C. § 326(a) and reimbursement of expenses incurred of $30.52. *See id*., *Exhibit D*.

1:00 PM
CONT... Dhananjay M. Ranat and Harsha D. Ranat **Chapter 7**

After payment of the Trustee's statutory fee, the balance of cash on hand for unsecured creditors is $78,368.39. *See id*. This amount is sufficient to pay allowed tardily filed unsecured claims a *pro-rata* distribution of approximately 31.4%. *See id*.

The Court approves the Report in conformance with 11 U.S.C.§ 704(9), including payment of the Trustee's statutory fee in the amount of $7,547.31, and the reimbursement of the Trustee's expenses in the amount of $30.52.

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

Party Information

Debtor(s):

Dhananjay M. Ranat	Represented By Leslie A Tos

Joint Debtor(s):

Harsha D. Ranat	Represented By Leslie A Tos

Trustee(s):

Nancy J Zamora (TR)	Pro Se

1:00 PM

9:25-10919 Robyn Louise Olsen **Chapter 7**

#18.00 Order to Show Cause why Case Should not be Dismiss for Failure to Pay Filing Fee in Installments as Ordered by Court

Docket 26

***** VACATED *** REASON: Deficient installment paid 10/3/2025**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Robyn Louise Olsen Pro Se

Trustee(s):

David Keith Gottlieb (TR) Pro Se

1:00 PM
9:23-10420 **Kevin Holly and Elizabeth Holly** **Chapter 7**

#19.00 CONT'D Order to Show Cause why bankruptcy case should not be reclosed

fr. 8-19-25, 9-9-25,

Docket 40

Tentative Ruling:

October 21, 2025

Appearances waived.

Given service of the adversary complaint, the Court will vacate the show cause order.

September 9, 2025

Appearances required. Counsel to Degarimore, Inc. is to appear, *in-person*. No remote appearances will be allowed.

Degarimore, Inc. ("Degarimore") filed that *Notice of Motion and Motion to (1) Reopen Bankruptcy Case Pursuant to 11 U.S.C. § 350(b); and (2) Determine Nondischargeability of Debt Pursuant to 11 U.S.C. § 523(a)(2) and § 523(a)(3)* (the "Motion") on January 29, 2025, requesting that the instant case be reopened to allow it to file a complaint to determine dischargeability. *See* Docket No. 24. The Motion was re-filed on March 10, 2025, due to Degarimore's failure to file the Motion originally in compliance with this Court's Local Rules. *See* Docket No. 31. The Motion was eventually approved on May 19, 2025. *See* Docket No. 37. Given the lack of progress in the case, the Court on July 25, 2025, issued its show cause order regarding the re-closing of the case. *See* Docket No. 40.

On August 19, 2025, Degarimore filed that *Complaint to Determine Dischargeability of Debt (11 U.S.C. §§ 523(a)(2)(A) and 523 (a)(3)(B))* (the "Complaint"). *See* Case No. 9:25-ap-01036-RC, Docket No. 1. The Court's Clerk has informed Degarimore, twice, that the Complaint fails to comply with this Court's Local Rules, and must be immediately corrected. *See id.* at Docket Nos. 2 and 5.

On August 19, 2025, the Court's Clerk issued that *Summons and Notice of Status Conference in Adversary Proceeding* (the "Summons"). *See id.* at Docket No. 3. As of September 2, 2025, no proof of service of the Summons has been filed, and the issues with the Complaint have not been corrected. If the Summons has not been served, the deadline to do so has lapsed. *See* Fed. R. Bankr. P. 7004(e).

The Court is inclined to reclose the case and dismiss the Complaint for lack of prosecution.

August 19, 2025

Appearances waived.

Before the Court is the Court's *Order to Show Cause Why Bankruptcy Case Should Not Be Reclosed* (the "OSC") issued on July 25, 2025. *See* Docket No. 40. On March 10, 2025, Degarimore, Inc. ("Degarimore") moved the Court to reopen the subject bankruptcy case to determine nondischargeability of a debt. *See* Docket No. 37. To date no such nondischargeability complaint has been filed.

On August, 5, 2025, Degarimore filed that *Declaration of Jake Y. Jung Regarding OSC Re: Why Bankruptcy Case Should Not Be Reclosed* (the "Response") in which Jake Jung states "[s]ince the Court granted the [motion to reopen, Degarimore] mistakenly understood that the subject debt was determined to be nondischargeable." *See* Docket No. 42, *Declaration of Jake Y. Jung*, p. 2. Attached to the Response is a draft complaint for nondischargeablility. *See id.* at *Exhibit A*, pp. 3-8.

To allow Degarimore to take further steps, the Court continues the hearing on the OSC to September 9, 2025, at 1:00 p.m.

Party Information

Debtor(s):

Kevin Holly	Pro Se

1:00 PM

CONT... Kevin Holly and Elizabeth Holly **Chapter 7**

Joint Debtor(s):

Elizabeth Holly	Pro Se

Trustee(s):

Jerry Namba (TR)	Pro Se

1:00 PM

9:25-10972 Hector Ayala **Chapter 7**

#20.00 Hearing re: [20] Debtor's motion to convert case from Chapter 7 to 13

Docket 20

Tentative Ruling:

October 21, 2025

This hearing on the Motion is continued to November 4, 2025, at 1:00 p.m. due to the Government Shutdown. The record is closed.

Appearances required.

Background

On July 23, 2025, Hector Ayala (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*. In the only filed schedules, the Debtor claims to be employed, with regular gross income of $6,240 per month. *See* Docket No. 15, *Schedule I: Your Income*, p. 27. The Debtor scheduled net income of $5 per month. *See id.* at pp. 29-31, *Schedule J: Your Expenses*.

On August 11, 2025, Man Investment Corporation ("MIC") filed that *Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362*, requesting that the automatic stay be lifted to allow it to foreclose upon the Property. *See* Docket No. 17.

On August 29, 2025, the Debtor filed *Debtor's Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)* (the "Motion"), seeking to convert the instant case to one under Chapter 13. *See* Docket No. 20. On August 29, 2025, the Debtor further filed that *Notice of Opportunity to Request a Hearing on Motion* (the "Notice"), informing parties-in-interest of the deadline to oppose the Motion under this Court's Local Rule 9013-1(o). *See* Docket No. 21. The Notice was filed on the entire mailing matrix on

August 29, 2025. *See id.* at pp. 3-4, *Proof of Service of Document*.

On September 8, 2025, the Debtor filed that *Response to Motion Regarding the Automatic Stay and Declaration(s) in Support* (the "Lift Stay Response"). *See* Docket No. 24. Included with the Lift Stay Response are a number of documents. First, there is included a *Declaration in Support of Opposition to Creditor's Motion for Relief from Automatic Stay* (the "Declaration"). *See id.* at pp. 5-7. The Debtor, through the Declaration, attests that he intends on converting his Chapter 7 case to one under Chapter 13. *See id.* at p. 6, lines 7-9. The Debtor also provides that in terms of his creditors, the IRS is owed $800,000, "a large portion of that is unsecured, and non-priority," the IRS is further owed $599,000 on a secured basis for payroll taxes, there is a purchase money first deed of trust against his home in the amount of $260,000, and MIC, according to the Debtor, is owed $202,000, which amount is fully secured against his home. *See id.* at lines 3-5 and 14-16. Attached to the Lift Stay Response are income and expense schedules, neither of which has been appropriately filed in the Debtor's case. *See id.* at pp. 9-14. The Debtor now claims net income of $11,004.18. *See id.* at p. 14. Part of the Debtor's income now includes a monthly contribution of $5,000 from the Debtor's son. *See id.* at p. 10 and 15. The Debtor also incudes as an exhibit to the Lift Stay Response a draft Chapter 13 Plan, presumably to be filed and served if the Motion is granted. *See id.* at pp. 26-30.

On September 21, 2025, MIC filed that *Opposition to Debtor's Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)*. *See* Docket No. 26.

<u>Analysis</u>

Pursuant to 11 U.S.C. § 706(a), "[t]he debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title." "Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter." 11 U.S.C. § 706(d). "Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $526,700 [] and noncontingent, liquidated secured debts of less than $1,580,125 [] may be a debtor under chapter 13 of this title." 11 U.S.C. § 109(e).

"Eligibility under § 109(e) 'should normally be determined by the debtor's originally filed schedules, checking only to see if the schedules were made in good faith.' But, where a good faith objection to eligibility has been filed by a party in interest, the bankruptcy court can make a limited inquiry outside of the schedules to determine if the Debtor estimated her debts in good faith, and if not, whether she was eligible for chapter 13 relief." *In re Fountain*, 612 B.R. 743, 748 (9th Cir. BAP 2020)(citing *In re Scovis*, 249 F.3d 975, 982 (9th Cir. 2001) and *In re Guastella*, 341 B.R. 908, 918 (9th Cir. BAP 2006)).

In reviewing the Debtor's schedules as originally filed, the Debtor discloses regular income, albeit limited net income. *See* Docket No. 15, pp. 26-31. The Debtor satisfies the threshold requirements of 11 U.S.C. §§ 706(a), 706(d) and 109(e), regular income. The Debtor scheduled noncontingent, liquidated, and undisputed secured debt of $461,000 and unsecured debt of $875,999. *See id.* at pp. 17-23. Based on the Debtor's originally filed schedules (and no amended schedules have been filed), the Debtor does not qualify for Chapter 13, as his noncontingent, liquidated, and undisputed unsecured debt exceeds the uppermost allowed limits of 11 U.S.C. § 109(e).

Conclusion

The Motion is denied.

Party Information

Debtor(s):

Hector Ayala — Represented By Bryan Diaz

Movant(s):

Hector Ayala — Represented By Bryan Diaz

1:00 PM

CONT... Hector Ayala **Chapter 7**

Trustee(s):

Jeremy W. Faith (TR) Pro Se

1:00 PM

9:24-11457 Jason R. Lloyd **Chapter 7**

#21.00 Hearing re: [48] Chapter 7 trustees motion for order: (1) approving employment of ThreeSixty Asset Advisors, LLC as trustees sales agent pursuant to 11 U.S.C. §§ 327 and 328(a); (2) authorizing reimbursement of expenses to ThreeSixty from sale proceeds pursuant to 11 U.S.C. § 330; (3) approving sale procedures and sale of estate property free and clear of liens, claims, and interests at public auction pursuant to 11 U.S.C. §§ 363(b) and (f); and (4) waiving the 14-day stay

Docket 48

Tentative Ruling:

October 21, 2025

Appearances waived.

Background

On December 29, 2025, Jason R. Lloyd (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*. The Debtor scheduled as an asset a 1953 Ford F100, valued at $285,000 (the "Vehicle"). *See id.* at p. 12, *Schedule A/B: Property*. Jeremy W. Faith (the "Trustee") is the duly appointed Chapter 7 trustee of the Debtor's bankruptcy estate. *See* Docket No. 5, *Notice of Chapter 7 Bankruptcy Case*.

Before the Court is *Chapter 7 Trustee's Motion for Order: (1) Approving Employment of ThreeSixty Asset Advisors, LLC as Trustee's Sales Agent Pursuant to 11 U.S.C. §§ 327 and 328(a); (2) Authorizing Reimbursement of Expenses to ThreeSixty from Sale Proceeds Pursuant to 11 U.S.C. § 330; (3) Approving Sale Procedures and Sale of Estate Property Free and Clear of Liens, Claims, and Interests at Public Auction Pursuant to 11 U.S.C. §§ 363(b) and (f); and (4) Waiving the 14-day Stay* (the "Motion"). *See* Docket No. 48.

1:00 PM
CONT... **Jason R. Lloyd** **Chapter 7**

11 U.S.C. § 704(a)(1)

Section 704(a)(1) of the Bankruptcy Code provides that, as one of their duties, "[t]he trustee shall [] collect and reduce to money the property of the estate for which such trustee serves…" 11 U.S.C. § 704(a)(1).

The Vehicle has an estimated net value after auction of $65,150 to $117,925. *See* Docket No. 48, p. 8, lines 6-7. The Vehicle is an asset of the Debtor's bankruptcy estate, and as there exist creditors, it is entirely appropriate, and indeed statutorily mandated that the Trustee liquidate the Vehicle for the benefit of the Debtor's creditors.

11 U.S.C. §§ 327 and 328

In the first instance, the Trustee seeks an order of this Court approving his employment of ThreeSixty Asset Advisors, LLC (the "ThreeSixty") to prepare and sale the Vehicle at auction pursuant to 11 U.S.C. §§ 327 and 328. *See id.* at p. 10. The Trustee seeks to compensate ThreeSixty through a 12% commission from the gross sale price of the Vehicle, and to reimburse ThreeSixty for certain costs of the sale, totaling $5,250. *See id.* at p. 8, lines 6-7.

Pursuant to 11 U.S.C. § 327(a), "the trustee, with the court's approval, may employ one or more attorneys [] that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title." Section 328(a) of the Bankruptcy Code provides that "[t]he trustee [] with the court's approval, may employ or authorize the employment of a professional person under section 327 [] of this title [] on any reasonable terms and conditions of employment, including on a [] percentage fee basis…"

Here, the Court finds good cause, and for the reasons set forth in the Motion, approves of the employment of ThreeSixty on the terms set forth in the Motion.

11 U.S.C. § 363(b)

Pursuant to 11 U.S.C. § 363(b), "[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate…"

"For a § 363(b)(1) sale to be approved, the trustee must establish: (1) a sound business purpose exists for the sale; (2) the sale is in the best interest of the estate. i.e., the sale price is fair and reasonable; (3) creditors received proper notice; and (4) the sale was properly negotiated and proposed in good faith." *In re Hernandez*, 2023 WL 8453137 *4 (9th Cir. BAP 2023)(internal citations omitted). "Bankruptcy courts typically review a transaction proposed under section 363(b)(1) using a 'business judgment' standard. The trustee has the burden to prove these elements. *Id.* This is a 'deferential' standard pursuant to which a 'bankruptcy court will generally approve' a reasoned decision by the debtor." *In re Claar Cellars LLC*, 2020 WL 1238924 *4 (Bankr. E.D. Wash. 2020)(internal citations omitted).

"The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances." *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005).

"An auction sale requires that interested parties be given the opportunity to bid, and that the sale go to the bidder offering the highest price. This requires a fair bidding process, where each potential bidder is given an adequate opportunity to bid." *In re Mama's Original Foods, Inc.*, 234 B.R. 500, 505 (Bankr. C.D. Cal. 1999).

Here, the Trustee has a sound business purpose for liquidating the Vehicle, the proceeds will be utilized for the payment of claims of the Debtor's bankruptcy estate. The sale is in the best interest of the estate in that the Vehicle is being exposed to the market through a reputable marketing platform for 30 days, a platform and marketing period which the Court finds will produce the maximum value of the Vehicle for the benefit of the estate, under the circumstances. On September 30, 2025, the Trustee filed, and served on all creditors, that *Notice of Chapter 7 Trustee's Motion for Order: (1) Approving Employment of ThreeSixty Asset Advisors, LLC as Trustee's Sales Agent Pursuant to 11 U.S.C. §§ 327 and 328(a); (2) Authorizing Reimbursement of Expenses to ThreeSixty from Sale Proceeds Pursuant to 11 U.S.C. § 330; (3) Approving Sale Procedures and Sale of Estate Property Free and Clear of Liens, Claims, and Interests at Public Auction Pursuant to 11 U.S.C. §§ 363(b) and (f); and (4) Waiving the 14-day Stay* (the "Notice"). *See* Docket No. 49. The Notice informed creditors of the relief sought in the Motion, and the deadline to oppose the Motion pursuant to this Court's Local Rule 9013-1(f). *See id.* No response to the Motion has been filed. Creditors received adequate notice of the Motion. As the Vehicle is to be

1:00 PM
CONT... **Jason R. Lloyd** **Chapter 7**

auctioned on a public webpage, any sale should be at arms' length.

The Motion is approved under 11 U.S.C. § 363(b), including the sale procedures.

11 U.S.C. § 363(f)

The Trustee asserts that the Vehicle is not subject to any perfected liens, although there are blanket liens over the Debtor's assets by the Internal Revenue Service, Morgan Stanley Smith Barney Financing LLC and First State Bank of the Florida Keys. *See* Docket No. 48, p. 7, lines 11-22. The Trustee disputes that these named creditors have liens against the Vehicle, as none has perfected its lien on a title to the Vehicle, and, none has disputed this contention in response to the Motion. *See id.* at pp. 7-8. The sale of the Vehicle is approved free and clear of the liens of the Internal Revenue Service, Morgan Stanley Smith Barney Financing LL and First State Bank of the Florida Keys pursuant to 11 U.S.C. § 363(f)(1).

Fed. R. Bankr. P. 6004

The Court waives the stay of an order granting the Motion under Fed. R. Bankr. P. 6004.

Party Information

Debtor(s):

Jason R. Lloyd	Represented By Carissa N Horowitz

Movant(s):

Jeremy W. Faith (TR)	Represented By Jonathan Serrano

Trustee(s):

Jeremy W. Faith (TR)	Represented By Jonathan Serrano

1:00 PM
9:24-10844 **Luis Martinez Gamino** **Chapter 7**

#22.00 CONT'D Hearing re: [41] Motion to approve compromise of controversy

fr. 10-7-25,

Docket 41

Tentative Ruling:

October 21, 2025

Appearances waived.

The Court has reviewed that *Declaration of William C. Beall in Support of Motion to Compromise Controversy*. *See* Docket No. 47. The Motion is granted. The Trustee is to lodge a conforming order within 7 days.

October 7, 2025

Appearances required.

Background

On July 29, 2024, Luis Martinez Gamino (the "Debtor") filed a voluntary petition under Chapter 7 of Title 11 of the United States Code. *See* Docket No. 1. Jerry Namba is the duly appointed Chapter 7 trustee (the "Trustee") for the Debtor's bankruptcy estate. *See* Docket No. 5.

The Debtor scheduled a personal injury claim (the "Personal Injury Claim") against a third party for a slip and fall and valued the claim at an unknown amount against Jalos Food Enterprises, Inc. ("Jalos Food"). *See* Docket No. 1, *Schedule A/B*, p. 15. **[FN1]**

The Debtor claimed an exemption of 100% of the Personal Injury Claim pursuant to Cal. Civil Procedure § 704.140. *See* Docket No. 18, *Schedule C*, p. 10.

On June 10, 2025, the Court issued that *Order on Application of Trustee to Employ*

Special Counsel employing Emmanuel Fobi ("Fobi") as special litigation counsel for the Personal Injury Claim. *See* Docket No. 38.

Fobi, representing both the Trustee and the Debtor, obtained an agreement with Jolas Food in which Jolas Food will pay $225,000 (the "Settlement Amount") in exchange for mutual releases and dismissal of the Personal Injury Claim. *See* Docket No. 41, Exhibit A, *General Release and Settlement Agreement*, pp. 9-18 (the "Agreement"). After payment to Fobi and paying all medical liens, the Trustee estimates that the net proceeds will be $57,000.00. *See id.* at p. 2 lines 22-24. Further, the Trustee and the Debtor have entered into that *Stipulation Re Objection to Exemptions* (the "Stipulation") in which the Trustee and the Debtor agreed to resolve the Debtor's claimed exemption in the Personal Injury Claim such that the net proceeds from the Personal Injury Claim will be split with 80% to the Debtor and 20% to the Debtor's bankruptcy estate – resulting in approximately $11,400 to the Debtor's bankruptcy estate. *See* Docket Nos. 43 and 46.

Before the Court is that *Motion to Compromise Controversy with Points and Authorities and Declaration of Jerry Namba in Support Thereof* (the "Motion") filed on September 10, 2025, by the Trustee. *See* Docket No. 41. Through the Motion, the Trustee seeks the Court's approval of the Agreement and the Stipulation, authority to pay the liens against the Personal Injury Claim, and, arguably, to pay Fobi's contingency fee. *See id.*

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(3) "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] the hearing on approval of the compromise of settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent."

On September 10, 2025, the Trustee filed that *Notice of Motion to Compromise Controversy* (the "Notice"). *See* Docket No. 42. All creditors, the Debtor, and the Office of the U.S. Trustee were served with Notice. *See id.* at *Proof of Service of Document*, pp. 3-5. Notice of the 9019 Motion was proper.

This Court's Local Rule 9013-1(f)(1) provides that "each interested party opposing or responding to the motion must file and serve the response [] on the moving party and the United States trustee not later than 14 days before the date designated for hearing." 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." This Court takes the default of all non-responding parties that were served with the Notice.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(2) "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice." Pursuant to Fed. R. Bankr. P. 2002(a)(3), "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] the hearing on approval of the compromise or settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent."

This Court's Local Rule 9013-1(f)(1) provides that "each interested party opposing or responding to the motion must file and serve the response [] on the moving party and the United States trustee not later than 14 days before the date designated for hearing." 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 or the Notice has filed an opposition. The Court takes the default of all properly served non-responding parties.

However, it is not clear that the Stipulation, although mentioned in the Motion, was served upon all creditors.

Analysis

Pursuant to Fed. R. Bankr. P. 9019(a), "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement."

1:00 PM
CONT... Luis Martinez Gamino Chapter 7

The bankruptcy court has great latitude in approving settlement agreements. *See In re A & C Properties*, 784 F.2d 1377, 1380-81 (9th Cir. 1986). A proposed settlement may only be approved if it is "fair and equitable." *See In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988); *see also In re Guy F. Atkinson Co. of California*, 242 B.R. 497, 502 (9th Cir. BAP 1999) ("At its base, the approval of a settlement turns on the question of whether the compromise is in the best interest of the estate."). Under this standard, the court must consider: (a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. *See Woodson*, 839 F.2d at 620. A court generally gives deference to a trustee's business judgment in deciding whether to settle a matter. *See In re Mickey Thompson Entertainment Group, Inc.*, 292 B.R. 415, 420 (9th Cir. BAP 2003).

"The law favors compromise, 'and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision should be affirmed.'" *In re Open Medicine Institute, Inc.*, 639 B.R. 169, 181 (9th Cir. BAP 2022) (citing *In re A & C Props.*, 784 F.2d at 1383)). "Moreover, '[w]hen assessing a compromise, courts need not rule upon disputed facts and questions of law, but rather only canvass the issues. A mini trial is not required.'" *Id.* (citing *In re Schmitt*, 215 B.R. 417, 423 (9th Cir. BAP 1997)).

"'The bankruptcy court's decision to approve a compromise is reviewed for abuse of discretion.'" *Id.* at 180 (citing *In re Mickey Thompson Ent. Grp.*, 292 B.R. 415, 420 (9th Cir. BAP 2003)).

Probability of Success in Litigation

The Trustee states that, while "success is not guaranteed[,]" the "Debtor and estate had every reason to believe some recovery would be obtained, [but] the amount of recovery could have been either more or less than the agreed amount." *See* Docket 41, p. 4. However, this does not address what chance the Trustee has in obtaining a judgment if the Personal Injury Claim progressed to trial. Moreover, the Court is not appraised of the potential value the Personal Injury Claim.

Additionally, the Trustee does not provide any analysis as to probability of success in litigating and objecting to the Debtor's claimed exemption in the Personal Injury Claim.

Without more, the Court is unable to determine whether this factor favors approving the Agreement or the Stipulation.

Collectability

The Trustee asserts that collectability "would only be an issue if the entire maximum insured amount was consumed by costs of defense." *See* Docket No. 41, p. 4 lines 25-27. However, the Motion does not advise the Court how much of the insurance coverage is remaining or if Jalos Food would be able to contribute any funds beyond the insurance money. As there is in fact available insurance funds, it appears that this factor disfavors approving the Agreement, however, without more, the Court is unable to determine whether this factor favors approving the Agreement and the Stipulation.

Complexity, Expense, Inconvenience, and Delay Attendant to Continued Litigation

The Trustee argues that the difficulty and expense of further litigation favors approving the Agreement because there are difficult issues of proof and the need for expert testimony. Yet, the analysis here is sparse. The Court is unaware how long further litigation would take and how much such litigation and experts would cost. Although the case does not appear to be overly complex, further litigation would certainly cause additional delay and the accrual of costs.

As such, the Court finds that this factor weighs slightly in favor of approving the Agreement, but the Court has not been provided with any analysis as to the Stipulation and is unable to make any determination to it.

The Interest of Creditors

The Trustee argues that he believes there will be no objection to the Agreement or the Stipulation, but the Motion does not address whether the Agreement and Stipulation are in the interest of creditors. Without more, the Court is unable to determine whether this factor favors or disfavors the Agreement and Stipulation.

1:00 PM

CONT... Luis Martinez Gamino **Chapter 7**

Conclusion

The Court is not inclined to approve the Agreement or the Stipulation. At a baseline, the Court is unaware of the maximum value of the Personal Injury Claim and how much time, effort, and money it will take to obtain such a result. The Court does not have a full cost benefit analysis of whether the Settlement Amount is fair, reasonable, and beneficial to creditors. Moreover, the Court has not been provided with any analysis as to the Stipulation and the Trustee's potential objection to the Debtor's exemption i.e. what is the Trustee's probability of success in litigating the claim objection, what would the best result be, and how much would such litigation cost.

Lastly, as Fobi's employment order requires application for payment under 11 U.S.C. § 330, the Court would not in conjunction with approval of the Agreement or the Stipulation, approve of any payments to Fobi from the proceeds without a properly filed and noticed fee application.

[FN1] The Personal Injury Claim is currently pending in the Superior Court of California for the County of Ventura styled as case no. 56-202200568977. *See* Docket No. 41, p. 2 lines 7-13.

Party Information

Debtor(s):

Luis Martinez Gamino	Represented By Daniel A Higson

Movant(s):

Jerry Namba (TR)	Represented By William C Beall

Trustee(s):

Jerry Namba (TR)	Represented By William C Beall

1:00 PM

9:25-10695 **Karen V. Tallent** **Chapter 7**

#23.00 CONT'D Hearing re: [10] Motion for intentional violation of the automatic stay

fr. 7-15-25, 8-5-25, 9-9-25, 10-7-25,

Docket 10

Tentative Ruling:

October 21, 2025

This hearing on the Motion is continued to November 4, 2025, at 1:00 p.m. due to the Government Shutdown. The record is closed.

October 7, 2025

Appearances waived.

The hearing on this matter is continued to October 21, 2025, at 1:00 p.m.

September 9, 2025

Appearances required.

July 15, 2025

Appearances required. All appearances are to be made in-person. The Court will allow no remote appearances.

Party Information

Debtor(s):

Karen V. Tallent Represented By
Edwin J Rambuski

1:00 PM
CONT... **Karen V. Tallent** **Chapter 7**

Movant(s):

Karen V. Tallent	Represented By Edwin J Rambuski Edwin J Rambuski

Trustee(s):

Sandra McBeth (TR)	Pro Se

1:00 PM
9:24-11231 CalKist, LLC **Chapter 12**

#24.00 Hearing re: [19] Motion to approve compromise controversy with the State of California Labor Commissioner

Docket 19

Tentative Ruling:

October 21, 2025

This hearing on the Motion is continued to November 4, 2025, at 1:00 p.m. due to the Government Shutdown. The record is closed.

Background

On October 28, 2024, CalKist, LLC (the "Debtor") filed a voluntary petition for relief under Chapter 12 of Title 11 of the United States Code. *See* Docket No. 1.

The Debtor scheduled total debt of $466,588.26 of which all is unsecured. *See* Docket No. 7, *Summary of Assets and Liabilities for Non-Individuals*.

On January 6, 2025, the State of California Labor Commission (the "Creditor") filed that *Proof of Claim 2* (the "Claim") in which the Creditor claimed the Debtor owed it $577,835.68, of which $12,860.68 is comprised of priority wage claims, for wage and labor code violations. *See* Claim 2-1. The Claim represents approximately 88% of the debt of the claims filed against the Debtor. *See* Claims Register, generally.

On March 24, 2025, the Debtor and the Creditor entered into that *Settlement Agreement and Release* (the "Agreement") in which the Debtor agreed to pay the Creditor $37,000.00 (the "Settlement Amount") in exchange for releasing the Debtor of the Claim. *See* Docket No. 19, *Exhibit A*, pp. 8-9. Additionally, through the Agreement, the Creditor agrees to release the Debtor's officers, directors, and employees as well as Edward A. Sutti ("Sutti"), the manager of the Debtor, and Agland Properties, Inc., a related party to the Debtor. *See id.*

1:00 PM
CONT... CalKist, LLC **Chapter 12**

Before the Court is that *Motion to Compromise Controversy* (the "Motion") filed by the Debtor on September 18, 2025, in which the Debtor seeks approval of the Agreement. *See* Docket No. 19. Through the Motion, the Debtor asserts that "a principal of the Debtor has agreed to fund the payment by making a contribution to the Debtor earmarked for" the purpose of paying of the Settlement Amount. *See id.* at p. 2 lines 19-20.

Notice

Pursuant to Fed. R. Bankr. P. 2002(a)(3) "the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of: [] the hearing on approval of the compromise of settlement of a controversy other than approval of an agreement pursuant to Rule 4001(d), unless the court for cause shown directs that notice not be sent."

On September 18, 2025, the Debtor filed that *Notice of Motion to Compromise Controversy* (the "Notice"). *See* Docket No. 20. All creditors, the Chapter 12 trustee, and the Office of the U.S. Trustee were served with the Notice. *See id.* at *Proof of Service of Document*, pp. 3-4. Notice of the Motion was proper.

This Court's Local Rule 9013-1(f)(1) provides that "each interested party opposing or responding to the motion must file and serve the response [] on the moving party and the United States trustee not later than 14 days before the date designated for hearing." 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." This Court takes the default of all non-responding parties that were served with the Notice.

Analysis

Pursuant to Fed. R. Bankr. P. 9019(a), "[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement."

The bankruptcy court has great latitude in approving settlement agreements. *See In re A & C Properties*, 784 F.2d 1377, 1380-81 (9th Cir. 1986). A proposed settlement may only be approved if it is "fair and equitable." *See In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988); *see also In re Guy F. Atkinson Co. of California*, 242 B.R. 497, 502 (9th Cir. BAP 1999) ("At its base, the approval of a settlement turns on the question of whether the compromise is in the best interest of the estate."). Under this standard, the court must consider: (a) the probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises. *See Woodson*, 839 F.2d at 620. A court generally gives deference to a trustee's business judgment in deciding whether to settle a matter. *See In re Mickey Thompson Entertainment Group, Inc.*, 292 B.R. 415, 420 (9th Cir. BAP 2003).

"The law favors compromise, 'and as long as the bankruptcy court amply considered the various factors that determined the reasonableness of the compromise, the court's decision should be affirmed.'" *In re Open Medicine Institute, Inc.*, 639 B.R. 169, 181 (9th Cir. BAP 2022) (citing *In re A & C Props.*, 784 F.2d at 1383)). "Moreover, '[w]hen assessing a compromise, courts need not rule upon disputed facts and questions of law, but rather only canvass the issues. A mini trial is not required.'" *Id.* (citing *In re Schmitt*, 215 B.R. 417, 423 (9th Cir. BAP 1997)).

"'The bankruptcy court's decision to approve a compromise is reviewed for abuse of discretion.'" *Id.* at 180 (citing *In re Mickey Thompson Ent. Grp.*, 292 B.R. 415, 420 (9th Cir. BAP 2003)).

Probability of Success in Litigation

Here, the Debtor argues that the Debtor's probability of success in opposing the Claim is between 7% and 93%.

The Court has no understanding of the Debtor's probability of successfully defeating the Claim, and so this factor favors denial of the Motion.

Collectability

This factor is not applicable.

Complexity, Expense, Inconvenience, and Delay Attendant to Continued Litigation

Here, the Debtor asserts that litigating the Claim would be factually complex as it requires discovery on the compensation of dozens of employees across many pay periods. The Debtor also asserts that the Settlement Amount is less than the cost to defend against and litigate the Claim.

As such, the Court finds that this factor weighs in favor of approving the Agreement.

The Interest of Creditors

The Debtor argues that the Agreement is in the interest of creditors as the Agreement reduced the claims against the estate by over 88% and thus allows the Debtor to file and confirm a plan of reorganization while the only cost to the estate will be an increase in the "capital account of [the Debtor's] equity holder." *See* Docket No. 19, p. 4 lines 18-20.

As such, the Court finds that this factor weighs in favor of approving the Agreement.

Conclusion

The Court is inclined to approve the Agreement; however, the Court is not appraised of who specifically is funding the Settlement Amount and whether the Settlement Amount is a gift to the Debtor and its estate. The Debtor has filed schedules asserting that Sutti is the 100% owner of the Debtor's interests. *See* Docket No. 20, *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy*, p. 20. If that is in-fact the case, the Court will grant the Motion.

Party Information

Debtor(s):

CalKist, LLC — Represented By
William C Beall

Movant(s):

CalKist, LLC — Represented By
William C Beall

1:00 PM

CONT... CalKist, LLC **Chapter 12**

Trustee(s):

Elizabeth (ND) F Rojas (TR) Pro Se

1:00 PM
9:24-10090 **Edward Ned Li** **Chapter 11**

#25.00 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, 7-8-25, 9-9-25,

Docket 1

Tentative Ruling:

October 21, 2025

Appearances waived.

The status conference is vacated in light of the dismissal of the bankruptcy case. *See* Docket No. 213.

September 9, 2025

Appearances required.

In light of *Debtor's Declaration that All Creditors Have been Paid*, need this case remain open, or shall the Court dismiss the case? *See* Docket No. 196. The Court presumes all administrative creditors (i.e. professionals) have been paid, but will confirm this point with the Debtor.

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.

1:00 PM

CONT... Edward Ned Li **Chapter 11**

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

1:00 PM

9:24-10578 Underground Solutions LLC **Chapter 11**

#26.00 Hearing re: [190] First and final application of Lucove Say & Co for award of fees and costs for C.P.A. for debtor for services provided from petition date through confirmation

Fees: $2,875.00; Expenses: $0.00

Docket 190

Tentative Ruling:

October 21, 2025

Appearances waived.

Background

On May 23, 2024, 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 Certified Public Accountant for Debtor-In-Possession* (the "Order"). *See* Docket No. 50.

On April 30, 2025, the Court entered that *Order Confirming Debtor-In-Possession's First Amended Plan of Reorganization* confirming the Debtor's plan of reorganization. *See* Docket No. 166.

On September 29, 2025, Lucove Say & Co. ("Applicant") filed that *First and Final Application for Award of Fees and Costs for C.P.A. for Debtor for Services Provided From Petition Date Through Confirmation* (the "Application"). *See* Docket No. 190. Through the Application, Applicant seeks allowance, on a final basis, of fees totaling $2,875.00 and expenses of $0.00 for the period of May 23, 2024, through April 29, 2025. *See id.*

Notice

On September 16, 2025, Applicant filed that *Notice of First and Final Application for Award of Fees and Costs for C.P.A. for Debtor for Services Provided From Petition Date Through Confirmation* (the "Notice"). *See* Docket No. 191. The Notice was served via U.S. Mail, first class, postage prepaid and via Notice of Electronic Filing [NEF] on the Debtor, creditors, and the United States Trustee. *See id.* at *Proof of Service of Document*, pp. 3-7. 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.

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's employment by the Debtor as its certified public accountant was approved through the Order. 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 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

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CONT... **Underground Solutions LLC** **Chapter 11**

to 11 U.S.C. § 330, allowing Applicant fees in the amount of $2,875.00 and expenses of $0.00.

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

Party Information

Debtor(s):

Underground Solutions LLC	Represented By Steven R Fox

Movant(s):

Underground Solutions LLC	Represented By Steven R Fox Steven R Fox

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9:25-10762 **Applied Powdercoat, LLC** **Chapter 11**

#27.00 Hearing re: [51] Debtor's motion to extend the time to file a plan of reorganization pursuant to 11 U.S.C. Section 1189(b)

Docket 51

Tentative Ruling:

October 21, 2025

This hearing on the Motion is continued to November 4, 2025, at 1:00 p.m. due to the Government Shutdown. The record is closed.

Background

On June 6, 2025 (the "Petition Date"), Applied Powdercoat, LLC (the "Debtor") filed a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the United States Code (this "Case"). *See* Docket No. 1. The Debtor elected to proceed in this Case under Subchapter V. *See id.* at p. 2.

The Court requires from debtors proceeding under Subchapter V to file status conference reports in advance of each status conference, and as a part of each status conference report to inform the Court regarding the Debtor's efforts towards a plan of reorganization within the strictures of 11 U.S.C. § 1189(b). *See* Docket No. 5, *Order Setting Initial Status Conference*. The Court has held two (2) status conferences in this Case. *See* Docket Nos. 39 and 56. On July 30, 2025, the Debtor filed that *Subchapter V Status Report*, informing parties-in-interest that the Debtor will file a plan of reorganization within 90 days of the Petition Date in conformance with 11 U.S.C. § 1189(b). *See* Docket No. 36, p. 2. On August 28, 2025, the Debtor filed a further *Subchapter V Status Report*, again, informing parties-in-interest that it will file a plan of reorganization within 90 days of the Petition Date. *See* Docket No. 49, p. 2. The Debtor provided that "[t]he plan will be relatively simple." *See id.* at p. 4.

On September 4, 2025, four (4) business days after the Debtor filed the second of its status conference reports, and after the Debtor informed parties-in-interest that a "relatively simple" plan of reorganization would be filed on that same day, the Debtor filed *Debtor's Notice of Motion and Motion to Extend the Time to File a Plan of Reorganization Pursuant to 11 U.S.C. § 1189(b)* (the "Motion"), requesting that the Court extend the 11 U.S.C. § 1189(b) deadline "for the Debtor to file its subchapter V bankruptcy plan for 60 days…" *See* Docket No. 51, p. 2, lines 1-6. Through the Motion, the Debtor asserts that "[t]he principal weight on Debtor's current operations is the cost of its lease and attendant expenses." *Id.* at lines 9-10. The Debtor further asserts that it " has spent the significant part of the ninety-days afforded by 11 U.S.C. § 1189(b) to survey potential sites for its business operations, view and inspect the potential sites and open discussions with lessors of the prospective locations to negotiate a new lease agreement." *Id.* at lines 14-17. So, despite the Debtor's revelations to parties-in-interest just four (4) business days prior, as of the date of the Motion, "the Debtor [was] not in the position to formulate its subchapter V small business plan." *Id.* at lines 18-19.

On September 10, 2025, the Debtor filed, tardily, that *Declaration of Osei Appiagyei in Support of Debtor's Notice of Motion and Motion to Extend the Time to File a Plan of Reorganization Pursuant to 11 U.S.C. § 1189(b)* (the "Appiagyei Declaration"). *See* Docket No. 55. The Appiagyei Declaration parrots certain of the assertions made in the Motion.

On September 18, 2025, Hagan Capital, LLC ("Hagan"), the Debtor's current landlord, filed that *Objection of Creditor, Hagan Capital, LLC, to Debtor's Motion to Extend Time to File a Plan of Reorganization or, Alternatively, for Order Imposing Conditions Including the Payment of Full Rent Under Its Lease* (the "Objection"). *See* Docket No. 57. Among other things, the Objection opposes granting the Motion because the Debtor's failure to find a new space to lease was "[a]t best, … a lack of foresight and diligence, not a circumstance beyond its control." *See id.*, p. 8, lines 8–14.

<u>Notice</u>

Pursuant to this Court's Local Rule 9013-1(d)(1), "a motion and notice thereof must be served upon the adverse party," and this Court's Local Rule 9013-1(d)(2) provides that "[t]he notice of motion and motion must be filed and served not later than 21 days before the hearing date designated in the notice…" 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."

The Motion, including the notice of the hearing on the Motion, was served on creditors of the Debtor and portions of the mailing matrix on September 4, 2025. *See* Docket No. 51, pp. 8-11, *Proof of Service of Document*. The only party served with the Motion that filed an opposition to the Motion was Hagan. The Court takes the default of all other parties served with the Motion.

<u>Analysis</u>

"[T]he design of a subchapter V case [is] to move the case expeditiously. It is a fast-tracked process aimed at giving the qualifying debtor a less expensive and accelerated path to reorganize its business affairs, such as the exclusive right to file a plan during the first 90 days…" *In re Online King, LLC*, 629 B.R. 340, 350 (Bankr. E.D.N.Y. 2021); *see also In re Signia, Ltd.*, 2024 WL 331967, at *3 (Bankr. D. Colo 2024); and *In re Seven Stars on the Hudson Corp.*, 618 B.R. 333, 340 (Bankr. S.D. Fla. 2020) ("And to balance the special new powers available to small business debtors, Congress granted creditors a very important protection: the requirement that a Subchapter V case proceed expeditiously.").

Pursuant to 11 U.S.C. § 1189(b), "[t]he debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend the period if the need for the extension is attributable to circumstances for which the debtor should not justly be held accountable."

"In considering a motion to extend under § 1189(b), there can be no dispute that the burden of proof rests with the debtor to establish the limited circumstances under which a court may grant an extension of the statutory deadline." *In re Online King LLC*, 629 B.R. at 349. "The burden is stringent and a higher standard than the 'for cause' standard in Section 1121(d)(1) that governs extensions of time to file a plan in a traditional Chapter 11 case []. The strict standard reflects the goals of Subchapter V to move a case forward expeditiously, to keep expenses down for the debtor, and to provide the debtor with an accelerated path to reorganize." *In re HBL SNF, LLC*, 635 B.R. 725, 729 (Bankr. S.D.N.Y. 2022).

Additionally, the debtor must present sufficient evidence or undisputed facts demonstrating that the debtor is entitled to such an extension. *See In re Excellence 2000, Inc.*, 636 B.R. 475, 480 (Bankr. S.D. Tex. 2022) (insufficient evidence was presented by the debtor that the circumstances were outside the debtor's control); *see also In re Waterville Redevelopment Co. IV, LLC*, 2024 WL 3658765, at *2-4 (Bankr. D. Me. 2024); and *In re Signia, Ltd.*, 2024 WL 331967, at *7 (motion was denied because it not supported by an affidavit or any evidence).

Although courts agree that the debtor bears the burden of proof and that the "timing requirement is 'strict,' 'stringent,' or 'high,' and that generalized excuses are insufficient, [… courts differ as to what] constitutes '*circumstances for which the debtor should not justly be held accountable*.'" *In re Signia, Ltd.*, 2024 WL 331967, at *4. The *In re Signia, Ltd.* Court identified four (4) standards that have been used by courts throughout the country. *Id.* at *4-7. The first standard looks to an assessment by the court of "whether 'external factors—beyond [the debtor's] control—contributed to [the debtor's] inability to comply with the deadlines.'" *Id.* at 4. A classic example was the "unexpected governmental order shutting down the business because of a virus like COVID." *Id.* The second test looks to whether "'the Debtor's need for an extension appears fairly attributable to factors outside his control.'" *Id.* at 5 (citing *In re Trepetin*, 617 B.R. 841 (Bankr. D. Md. 2020)). A third test looks to the equities of parties-in-interest, balancing those interests. *Id.* at *6. A final test looks at cases on a case-by-case basis to determine whether the standard of 11 U.S.C. § 1189(b) has been met. *Id.* at *7.

This Court adopts the first standard, the so-termed Beyond-the-Debtor's-Control Standard, as it most reflects the plain language of 11 U.S.C. § 1189(b), and best mirrors the cases analyzing the same language used in 11 U.S.C. § 1221.

Here, the Court begins with the sparse evidentiary record that comprises the Motion, and that evidence collides in some respects with other assertions made by the Debtor in other aspects of this Case. The Debtor has consistently maintained that a plan of reorganization would be forthcoming, on time, in the status reports filed with this Court, with never a mention of the need for a 2-month extension. Just four (4) business days after its last status report, the Debtor's tune changed, and it now is unable to do what it said it would be able to do less than a week prior.

Other than unsupported, parroted statements made in the Appiagyei Declaration, the Court has no evidence to support the statements made in the Motion. The Debtor's plan of reorganization went from a "relatively simple" plan that would surely be filed four (4) business days from the last status report, to one that could not even be formulated.

The Debtor has not articulated any circumstances beyond the Debtor's control or any bona fide external reason why it could not meet the timing requirement of 11 U.S.C. § 1189(b). The Debtor's sole reason for delay relates to it shopping for a new real property lease, but the Debtor has known of its requirement for smaller space for months, and even if it had not, this is not an external circumstance out of the Debtor's control, at least not as it has been explained in the Motion. *See In re Waterville Redevelopment Co. IV, LLC*, 2024 WL 3658765, at *5 ("A financing process can involve uncertainties that do not inevitably thwart a plan's filing. Thus, factual details about alleged uncertainties are key when seeking to extend a plan filing deadline on that basis").

Conclusion

The Court is inclined to deny the Motion.

Party Information

Debtor(s):

Applied Powdercoat, LLC	Represented By Derrick Talerico Paige T Rolfe

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CONT... **Applied Powdercoat, LLC** **Chapter 11**

Movant(s):

Applied Powdercoat, LLC	Represented By Derrick Talerico Derrick Talerico Paige T Rolfe Paige T Rolfe

Trustee(s):

John-Patrick McGinnis Fritz (TR)	Pro Se

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9:25-10329 Global Premier Regency Palms Oxnard, LP **Chapter 11**

#28.00 CONT'D Hearing re: [72] Debtors motion for order authorizing debtor to enter into real property lease amendment with tenant

fr. 7-15-25, 8-5-25, 8-20-25, 8-22-25,

Docket 72

Tentative Ruling:

October 21, 2025

This hearing on the Motion is continued to November 4, 2025, at 1:00 p.m. due to the Government Shutdown. The record is closed.

August 20, 2025

Appearances required.

July 15, 2025

Appearances waived.

The hearing on the Motion is continued to August 5, 2025, at 1:00 p.m.

Party Information

Debtor(s):

Global Premier Regency Palms	Represented By Garrick A Hollander Peter W Lianides

Movant(s):

Global Premier Regency Palms	Represented By Garrick A Hollander Peter W Lianides

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CONT... **Global Premier Regency Palms Oxnard, LP** **Chapter 11**

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9:25-10329 Global Premier Regency Palms Oxnard, LP **Chapter 11**

#29.00 Hearing re: [144] JKO Group, LLC's motion to quash subpoena directed to Craig Ganz of Ballard Spahr LLC

Docket 144

***** VACATED *** REASON: Withdrawal of motion filed 10/7/2025**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Global Premier Regency Palms	Represented By Garrick A Hollander Peter W Lianides

Movant(s):

JKO Group, LLC	Represented By Jeremy H Rothstein