



Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
July 01, 2025

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

In re: ) Case No.: 24-14345-MKN  
) Chapter 7  
PAULENE KAY TRAUTMAN, )  
) Date: April 30, 2025  
Debtor. ) Time: 2:30 p.m.  
)

**ORDER ON MOTION FOR: (I) SANCTIONS AGAINST ANDREW LARSON FOR  
WILLFUL VIOLATION OF THE AUTOMATIC STAY, AND (II) TO AVOID, CANCEL  
AND EXPUNGE THIRD LIS PENDENS RECORDED POST-PETITION AGAINST THE  
DEBTOR'S RESIDENCE<sup>1</sup>**

On April 30, 2025, the court heard the Motion for: (I) Sanctions Against Andrew Larson for Willful Violation of the Automatic Stay, and (II) to Avoid, Cancel and Expunge Third Lis Pendens Recorded Post-Petition Against the Debtor's Residence ("Sanctions Motion").<sup>2</sup> The appearances of the parties and counsel were noted on the record. After arguments were presented, the matter was taken under submission.

<sup>1</sup> In this Order, all references to "ECF No." are to the numbers assigned to the documents filed in the case as they appear on the docket maintained by the clerk of the court. All references to "AECF No." are to the documents filed in any adversary proceeding mentioned in this Order. All references to "Section" are to provisions of the Bankruptcy Code, 11 U.S.C. § 101, et seq. All references to "NRS" are to provisions of the Nevada Revised Statutes. All references to "Bankruptcy Rule" are to the Federal Rules of Bankruptcy Procedure. All references to "Civil Rule" are to the Federal Rules of Civil Procedure.

<sup>2</sup> On March 26, 2025, Paulene Kay Trautman ("Debtor") filed the instant Sanctions Motion, accompanied by the declaration of her bankruptcy counsel, Matthew Zirzow ("Zirzow Sanctions Declaration"). (ECF Nos. 37 and 38). On March 27, 2025, Andrew Larson ("Larson"), in pro se, filed an opposition to the Sanctions Motion ("Opposition") accompanied by his supporting declaration ("Larson Sanctions Declaration"). (ECF Nos. 40 and 41).

## BACKGROUND

Paulene Kay Trautman and Andrew Larson were once domestic partners under Nevada law. The relationship soured, and the Debtor commenced a proceeding to dissolve the domestic partnership (“Dissolution Action”) in the family law division of the Eighth Judicial District Court, Clark County, Nevada (“Family Court”). After nearly two years of contentious litigation, the Debtor voluntarily commenced the above-captioned Chapter 7 proceeding.

The instant Sanctions Motion was preceded by a number of orders entered by the Family Court in the Dissolution Action and related proceedings. The instant Sanctions Motion also was preceded by a number of orders entered by this bankruptcy court in this Chapter 7 proceeding and a related adversary proceeding. The background to the Dissolution Proceeding as well as the Chapter 7 proceeding is described in this court’s prior Order on Motion to: (I) Avoid Lis Pendens as Impairing the Debtor’s Homestead Exemption Pursuant to 11 U.S.C. § 522(f) and (II) Cancel and Expunge Lis Pendens Pursuant to NRS § 14.015 (“Lien Avoidance Motion”)<sup>3</sup> entered on June 6, 2025 (“Lien Avoidance Order”), as well as its prior Order on Motion to: (I) Dismiss Claims Pursuant to 11 U.S.C. §§ 523 and 727 for Failure to State a Claim Upon Which Relief Can Be Granted; and (II) Dismiss Arguments Pursuant to U.S.C. § 707 Without Prejudice (“Adversary Dismissal Motion”)<sup>4</sup> entered on June 6, 2025 (“Adversary Dismissal Order”). (ECF No. 44 and AECF No. 34). Both of those orders are incorporated herein by reference.

### **A. The Dissolution Action.**

Debtor is sixty years old and employed as a dental assistant in Las Vegas. See Debtor Lien Avoidance Declaration at ¶ 2. Larson is listed as an active real estate salesperson with Century 21 Consolidated in Las Vegas, and also works as a judgment collection and enforcement

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<sup>3</sup> In connection with the Lien Avoidance Motion (ECF No. 17), declarations were filed by the Debtor (“Debtor Lien Avoidance Declaration”) and her bankruptcy counsel Matthew Zirzow (“Zirzow Lien Avoidance Declaration”). (ECF Nos. 18 and 19). Debtor also filed a supplemental declaration (“Debtor Supplemental Lien Avoidance Declaration”). (ECF No. 30). Larson filed a declaration in support of his opposition to the Lien Avoidance Motion (“Larson Lien Avoidance Declaration”). (ECF No. 28).

<sup>4</sup> In connection with the Adversary Dismissal Motion (AECF No. 5), Debtor filed a request for judicial notice. (AECF No. 6).

1 agent doing business under the name “HCR Beverly Hills” and also under the name 777JC, LLC,  
2 a Nevada limited liability company, of which he is listed as manager. Id. at ¶ 3.

3 On March 28, 2016, Debtor and Larson entered into a domestic partnership. See Debtor  
4 Lien Avoidance Declaration at ¶ 4.

5 On August 31, 2017, Debtor, as an unmarried woman, and her parents, Paul  
6 and Janice Madrid, as joint tenants, acquired title to a single-family residence commonly known  
7 as 3511 Bagnoli Court, Las Vegas, Nevada 89141, APN 177-32-316-022 (the “Residence”). See  
8 Debtor Lien Avoidance Declaration at ¶ 5. The Residence is encumbered by a first Deed of  
9 Trust securing a residential loan currently serviced by PennyMac Loan Services LLC  
10 (“PennyMac”).<sup>5</sup>

11 On September 12, 2022, Debtor commenced the Dissolution Action to dissolve the  
12 domestic partnership in the Family Division of the Nevada State Court (“Family Court”),  
13 denominated Case No. D-22-654752-U. See Debtor Lien Avoidance Declaration at ¶ 8.

14 On September 15, 2022, Larson recorded against the Residence a Notice of Lis Pendens  
15 in the Clark County real property records as Instrument No. 20220915-0002763, thus asserting a  
16 possible interest in the Residence. See Debtor Lien Avoidance Declaration at ¶ 9.

17 On September 7, 2023, Larson, in pro se, commenced a separate civil proceeding against  
18 the Debtor in the Civil Division of the Nevada State Court, denominated Case No. A-23-877285-  
19 C (“Larson Civil Action”). His complaint asserted a variety of theories, including claims for  
20 “animal abuse and cruelty; conversion; theft; intentnional [sic] infliction of emotional  
21 dsitress [sic]; unjust enrichment; neglegent [sic] breach of fiduciary duty; fraud; malice;  
22 oppression; and defamation.” See Debtor Lien Avoidance Declaration at ¶ 11.

23 On or about September 11, 2023, Larson recorded against the Debtor an additional  
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25 <sup>5</sup> Debtor attests that PennyMac was owed approximately \$223,000 when she commenced  
26 her Chapter 7 proceeding and is secured by a deed of trust recorded against the Residence on  
27 August 31, 2017, as Instrument No. 20170831-0002949 in the real estate record of Clark County,  
28 Nevada. See Debtor Lien Avoidance Declaration at ¶ 6. She attests that Larson did not provide  
any of the down payment to acquire the Residence, is not obligated on the loan, and that the  
entire down payment was provided by the Debtor and her parents. Id. at ¶ 7.

1 Notice of Lis Pendens in the Clark County real estate records as Instrument No. 20230911-  
2 0000304. The additional Notice of Lis Pendens purportedly is based on a claim to an interest in  
3 the Residence arising from his claims for relief alleged in the Larson Civil Action.<sup>6</sup> See Debtor  
4 Lien Avoidance Declaration at ¶ 12.<sup>7</sup>

5 On September 27, 2023, Larson filed a notice of voluntary dismissal of the Larson Civil  
6 Action, but did not take any steps to remove, release, or otherwise expunge the Lis Pendens that  
7 he had recorded. See Debtor Lien Avoidance Declaration at ¶ 13.

8 On April 5, 2024, the Family Court entered a Stipulated Decree of Termination of  
9 Domestic Partnership; Dismissal of Third Party Complaint With Prejudice; and Mutual Waivers  
10 and Releases (the “Divorce Decree”). Pursuant to the Divorce Decree, the parties agreed, *inter*  
11 *alia*, that their domestic partnership would be terminated, that the Debtor was awarded the  
12 Residence as her sole and separate property, and that Larson would receive the sum of \$17,000  
13 from the Debtor from her retirement savings in full settlement and release of all matters between  
14 the parties. See Debtor Lien Avoidance Declaration at ¶ 15.

15 On April 26, 2024, however, Larson filed in the Family Court, through his state court  
16 counsel, a Motion to Set Aside the Decree of Dissolution of Domestic Partnership (“Motion to  
17 Set Aside”). See Debtor Lien Avoidance Declaration at ¶ 16.

18 On April 29, 2024, Debtor recorded her Declaration of Homestead with respect to the  
19 Residence. See Debtor Lien Avoidance Declaration at ¶ 18.

20 On April 30, 2024, the Family Court entered a Qualified Domestic Relations Order  
21 in the Dissolution Action, as stipulated to by the parties. See Debtor Lien Avoidance  
22 Declaration at ¶ 19.

23 On May 17, 2024, Debtor filed in the Dissolution Action her opposition to the Motion to  
24 Set Aside. See Debtor Lien Avoidance Declaration at ¶ 20.

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25 <sup>6</sup> In this Order, the Notice of Lis Pendens recorded in connection with the Dissolution  
26 Action as well as the Notice of Lis Pendens recorded in connection with the Larson Civil Action  
27 may be referenced jointly as “the Lis Pendens.”

28 <sup>7</sup> A copy of the additional Notice of Lis Pendens is attached as Exhibits 8 to the Debtor  
Lien Avoidance Declaration.

1 On June 24, 2024, the Family Court held an initial hearing on the Motion to Set Aside  
2 and requested additional briefing and argument. The hearing was continued on the matter to  
3 August 12, 2024. See Debtor Lien Avoidance Declaration at ¶ 21.

4 On August 2, 2024, 2024[sic] Larson, in pro se, separately filed another Motion to Set  
5 Aside<sup>8</sup> which was set for hearing before the Family Court on August 12, 2024. See Debtor Lien  
6 Avoidance Declaration at ¶ 21.

7 On or about October 8, 2024, the Family Court entered its order denying Larson's Motion  
8 to Set Aside the Divorce Decree ("Order Denying Set Aside"). See Debtor Supplemental Lien  
9 Avoidance Declaration at ¶ 2 and Exhibit 19. Larson apparently asserted that he would appeal  
10 the Family Court's denial of his Motion to Set Aside, but the Debtor attests that Larson has not  
11 obtained a stay pending appeal of the Divorce Decree or the Family Court's denial of his Motion  
12 to Set Aside. See Debtor Lien Avoidance Declaration at ¶ 25.

13 On or about November 5, 2024, Larson filed in pro se a notice of appeal to the Nevada  
14 Supreme Court from the Order Denying Set Aside ("State Court Appeal"). See Sanctions  
15 Motion at ¶ 30.

16 On April 25, 2025, the State Court Appeal was transferred from the Nevada Supreme  
17 Court to the Nevada Court of Appeals, and assigned Case No. 89636-COA. The docket entries  
18 in the appellate proceeding reflect that a stay on appeal of the Order Denying Set Aside has not  
19 been entered.

20 **B. The Bankruptcy Proceeding.**

21 On August 23, 2024, Debtor filed her voluntary Chapter 7 petition ("Petition"). (ECF  
22 No. 1). The case was assigned for administration to Chapter 7 bankruptcy trustee Lenard E.  
23 Schwartzer ("Trustee"). A Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline  
24 ("Bankruptcy Notice") was issued, initially scheduling a meeting of creditors for September 25,  
25 2024, and a deadline of November 25, 2024, for interested parties to object to the Debtor's

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26  
27 <sup>8</sup> Hereafter, all references in this order to the "Motion to Set Aside" will encompass both  
28 the motion filed by Larson's counsel on April 26, 2024, and the additional motion filed by  
Larson in pro se on August 2, 2024.

Chapter 7 discharge or to object to the discharge of a particular debt. (ECF No. 7).<sup>9</sup> Attached to the Petition was the Debtor's schedules of assets and liabilities ("Schedules") and statement of financial affairs ("SOFA").

On her property Schedule "A/B," Debtor listed the Residence as a joint tenancy interest held with her parents, Paul and Janice Madrid. She listed the Residence at a total fair market value of \$395,000 and her interest as a one-third joint tenant at a value of \$130,350. On the same property schedule, Debtor also listed claims against Larson arising out of and related to the Dissolution Action. Debtor also listed an individual retirement account ("IRA") valued at \$71,690.15. On her exemption Schedule "C," Debtor claimed her one-third joint tenancy interest in the Residence as exempt for the amount of \$56,814.45 under the Nevada homestead exemption. She also claimed the IRA as fully exempt. On her secured creditor Schedule "D," Debtor listed PennyMac as having a claim in the amount of \$222,835 secured by a mortgage against the Residence. On her unsecured creditor Schedule "E/F," Debtor listed Larson as having a non-priority claim that is contingent, unliquidated, and disputed arising from the Dissolution Action. On her co-debtor Schedule "H," Debtor lists her parent, Paul Madrid, as a codebtor with respect to the debt to PennyMac secured by the Residence. On her monthly income Schedule "I," Debtor discloses that she is a dental assistant having net income of \$2,265.87. On her monthly expense Schedule "J," she lists expenses totaling \$4,564.93.

On her SOFA, Debtor discloses in Part 2 that her gross income in 2022 was \$38,744, in 2023 was \$35,601, and in 2024 (up to the Petition date) was \$23,525.14. In 2024, Debtor also had \$7,000 in retirement income. In Part 3, Debtor also discloses that on May 8, 2024, she paid \$17,000 to Larson "Pursuant to Stipulated Decree of Termination of Domestic Partnership." In Part 4, Debtor also discloses the Dissolution Action as well as the Larson Civil Action.<sup>10</sup>

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<sup>9</sup> On August 23, 2023, the Debtor's counsel apparently emailed Larson's counsel in the Dissolution Action a courtesy copy of the Petition and the Bankruptcy Notice. Larson confirmed receipt of this email, apparently forwarded to him by his attorney, because he called the Debtor's counsel immediately that day at 2:33 p.m. See Zirzow Lien Avoidance Declaration at ¶ 2.

<sup>10</sup> Commencement of the Chapter 7 proceeding apparently triggered disturbing behavior. Debtor's bankruptcy counsel attests: "On August 25, 2024 at 5:32 a.m., Mr. Larson emailed me back threatening to send letters to five (5) of the Debtor's creditors alleging that the Debtor had

On August 26, 2024, in the Dissolution Action, Debtor filed a copy of the Bankruptcy Notice and a renewed opposition to Motion to Set Aside. See Debtor Lien Avoidance Declaration at ¶ 23.

On September 4, 2024, the Debtor, Larson, and the Trustee filed a Stipulation for Relief From the Automatic Stay to Permit Family Court Case to be Concluded (“RAS Stipulation”). (ECF No. 11).<sup>11</sup> On the same date, the bankruptcy court entered an order approving that stipulation. (“RAS Order”). (ECF No. 12).<sup>12</sup> The stipulation was reached between the Debtor,

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committed credit card/loan fraud, saying that he was going to include a copy of Ms. Trautman’s personal income tax returns, asserting that Ms. Trautman had ran up her credit card debt during her divorce proceedings with Mr. Larson. Finally, the letters stated that ‘I am happy to assist you with anything that you need to obtain and collect a judgment against her for free. Information, declaration, affidavit, testimony, just ask. In addition to inside information, I also have a background in judgment collections under the brand 777JC, LLC.’ Mr. Larson has since claimed that he did not actually send out these letters to Ms. Trautman’s creditors, but regardless, they are an obvious attempt to try to extort and extract some kind of inappropriate relief. A true and correct copy of this email and letter attachments are attached as Exhibit 1.” See Zirzow Lien Avoidance Declaration at ¶ 3.

<sup>11</sup> That Stipulation expressly states as follows:

3. The Debtor and Mr. Larson contend that although they are aware that there are certain exceptions to the automatic stay for certain marital-related matters pursuant to 11 U.S.C. § 362(b)(2), some aspects of the remaining matters pending in the Family Court Case arguably involved the division of property pursuant to 11 U.S.C. § 362(b)(2)(A)(iv), or otherwise, such that the automatic stay remains in place as to it, and thus that the Family Court Case may not be able to proceed absent relief from stay.

4. The Debtor and Mr. Larson believe it is in their interests to allow the Family Court Case to proceed to conclusion, and thus agree that, to the extent necessary, relief from the automatic stay should be granted ‘for cause’ pursuant to 11 U.S.C. § 362(d)(1) to allow the Family Court Case to proceed to conclusion.

5. The Chapter 7 Trustee does not oppose the grant of stay relief requested herein; provided, however, the alleged damages of the Debtor for pre-petition actions of Mr. Larson remain property of the estate.

RAS Stipulation at ¶¶ 3, 4, and 5 (emphasis added).

<sup>12</sup> The order specifically provides that the Debtor and Larson “are granted relief from the automatic stay...to allow the [Dissolution Action] **to proceed to conclusion, including all pending matters; provided, however**, the alleged damages of the Debtor for pre-petition actions of Mr. Larson remain property of the bankruptcy estate.” RAS Order at 2:3-8 (emphasis added)



Larson, and the Trustee inasmuch as the Motion to Set Aside remained pending in the Dissolution Action and a further hearing and ruling by the Family Court was scheduled for September 9, 2024.

On September 9, 2024, the Family Court held a further hearing and indicated that it was denying the Motion to Set Aside. See Debtor Lien Avoidance Declaration at ¶ 24.

On September 25, 2024, the Debtor's first meeting of creditors was held and concluded.<sup>13</sup> (ECF No. 16).

On September 26, 2024, the Trustee filed his Chapter 7 Trustee's Report of No Distribution, indicating that no funds are available to pay creditor claims. (ECF No. 16).

On October 1, 2024, Debtor filed the Lien Avoidance Motion, along with the Debtor Lien Avoidance Declaration and the Zirzow Lien Avoidance Declaration. The Lien Avoidance Motion seeks to avoid the Lis Pendens with respect to the Residence as constituting judicial liens under Section 522(f)(1) or, in the alternative, to expunge the Lis Pendens under Nevada law. The Lien Avoidance Motion was noticed to be heard on November 6, 2024. (ECF No. 20).<sup>14</sup>

On October 11, 2024, Larson, in pro se, filed his opposition to the Lien Avoidance Motion. (ECF No. 24).

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in bold). (ECF No. 12). As previously mentioned at 3, supra, on September 15, 2022, in connection with the Dissolution Action, Larson recorded against the Residence a Notice of Lis Pendens in the Clark County real property records as Instrument No. 20220915-0002763, thus asserting a possible interest in the Residence. Thus, at the time the RAS Order was entered on September 4, 2024, the Dissolution Action included at least one of the lis pendens that Larson recorded against the Residence in his on-going dispute with the Debtor.

<sup>13</sup> Under Bankruptcy Rule 4003(b)(1), the deadline to object to any exemptions claimed by a debtor expires 30 days after conclusion of the meeting of creditors. Because the meeting concluded on September 25, 2024, the deadline to object to the Debtor's exemptions in the instant case expired on or about October 26, 2024. No objections were filed to the Debtor's exemptions. Under Section 522(l), the property claimed as exempt on her Schedule "C" therefore is exempt under bankruptcy law.

<sup>14</sup> The Debtor attests that she has continuously lived in the Residence as her residence and domicile since acquiring it in 2017. See Debtor Lien Avoidance Declaration at ¶ 27.



1 On October 24, 2024, Larson filed an amended opposition (“Larson Lien Avoidance  
2 Opposition”) to include a “Declaration of Creditor, Andrew Larson.” (ECF No. 28).

3 On October 25, 2024, Debtor filed her Reply to the Larson Lien Avoidance Opposition,  
4 along with her Supplemental Declaration in support of the Reply. (ECF Nos. 29 and 30).

5 On November 6, 2024, the Lien Avoidance Motion was heard and taken under  
6 submission.

7 On November 21, 2024, Larson, in pro se, commenced Adversary Proceeding No. 24-  
8 01158 against the Debtor seeking to deny a Chapter 7 discharge under Sections 727(a)(2),  
9 727(a)(4), and 727(a)(5) and to determine dischargeability of debt under Sections 523(a)(2) and  
10 523(a)(4) (“Adversary Proceeding”).<sup>15</sup>

11 On November 25, 2024, Debtor filed in the Adversary Proceeding a Motion to: (I)  
12 Dismiss Claims Pursuant to 11 U.S.C. §§.523 and 727 for Failure to State a Claim Upon Which  
13 Relief Can Be Granted; and (II) Dismiss Arguments Pursuant to 11 U.S.C. § 707 Without  
14 Prejudice (“Adversary Dismissal Motion”).

15 On December 5, 2024, Larson filed an opposition to the Adversary Dismissal Motion  
16 while the Debtor filed a reply. (AECF Nos. 10 and 11).

17 On December 30, 2024, the Adversary Dismissal Motion was heard and taken under  
18 submission.

19 On February 24, 2025, while the Lien Avoidance Motion and Adversary Dismissal  
20 Motion remained under submission, Larson filed in pro se a Motion for Leave to File Second  
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23 <sup>15</sup> Because Larson objected to the Debtor’s discharge, an order granting a Chapter 7  
24 discharge cannot be entered until the Adversary Proceeding is resolved. Because the Residence  
25 is property of the Chapter 7 estate, it generally remains protected by the automatic stay under  
26 Section 362(a) until it is no longer property of the estate, see 11 U.S.C. § 362(c)(1), or relief  
27 from the automatic stay under Section 362(d) is granted by the court. Property generally remains  
28 property of the bankruptcy estate until it is administered during the case, is exempted under  
Section 522(l), or is abandoned under Section 554. At the time of the hearing on the instant  
Sanctions Motion, the Residence remains property of the Chapter 7 estate protected by the  
automatic stay.

Amended Complaint in the Adversary Proceeding (“Larson Motion to Amend”). (AECF No. 24). He noticed the motion to be heard on April 30, 2025. (AECF No. 26).

On February 25, 2025, in connection with the State Court Appeal, Larson recorded against the Residence an additional Notice of Lis Pendens (“Post-Petition Lis Pendens”).<sup>16</sup>

On March 26, 2025, Debtor filed in the Chapter 7 proceeding the instant Sanctions Motion, supported by the Zirzow Sanctions Declaration.<sup>17</sup> (ECF Nos. 37 and 38). The Sanctions Motion was noticed to be heard on April 30, 2025.

On March 27, 2025, Larson filed an opposition to the Sanctions Motion supported by the Larson Sanctions Declaration.<sup>18</sup> (ECF Nos. 40 and 41).

On April 30, 2025, both the Larson Motion to Amend in the Adversary Proceeding and the instant Sanctions Motion in the Chapter 7 proceeding were heard and taken under submission.

### DISCUSSION

The court has reviewed and considered the materials and written testimony offered by the parties as well as the written and oral arguments presented. Based on that review and resulting considerations, the court concludes that the Sanctions Motion must be denied in part and granted in part.

#### **I. Section 362(k) Motion for Sanctions.**

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<sup>16</sup> The Post-Petition Lis Pendens was recorded on February 2, 2025, in the Office of the Clark County Recorder as Instrument No. 20250225-0001147.

<sup>17</sup> Attached to the Zirzow Sanctions Declaration as Exhibit 1 is an email exchange between Debtor’s counsel and Larson on February 27, 2025, requesting that the Post-Petition Lis Pendens be removed from the Clark County records as being a violation of the automatic stay. Larson did not agree to do so. Also attached as Exhibit 2 to the Sanctions Motion is a copy of the Post-Petition Lis Pendens.

<sup>18</sup> In his declaration, Larson attests, *inter alia*, that he reviewed the RAS Order and did not file the Post-Petition Lis Pendens with intent to violate the automatic stay. See Larson Sanctions Declaration at ¶¶ 4, 5, 9, and 11. He also attests that he did not believe the language of the RAS Stipulation prohibited him from giving notice of an appeal that might affect title to the Residence. Id. at ¶ 7.

1 “[A]n individual injured by any willful violation of a stay provided by this section shall  
 2 recover actual damages, including costs and attorneys’ fees, and, in appropriate circumstances,  
 3 may recover punitive damages.” 11 U.S.C. § 362(k) (emphasis added). Debtor argues that  
 4 Larson willfully violated the automatic stay by recording the Post-Petition Lis Pendens,<sup>19</sup>  
 5 resulting in actual damages as well as legal expenses incurred in pursuing the instant Sanctions  
 6 Motion.<sup>20</sup> Larson maintains that the language of the RAS Order appeared to permit a lis pendens  
 7 to be recorded in connection with the Dissolution Action, as it was not an attempt to enforce a  
 8 judgment or to collect a debt. He also argues that because the State Court Appeal has not been  
 9 completed, his recordation of the Post-Petition Lis Pendens did not violate the automatic stay.

10 In this instance, there is no dispute that at the time the RAS Order was entered by this  
 11 court on September 4, 2024, Larson already had recorded an initial lis pendens against the  
 12 Residence on September 15, 2022, in connection with the Dissolution Action.<sup>21</sup> There is no  
 13 dispute that the express language of the RAS Order modified the automatic stay specifically to  
 14 allow the Dissolution Action to proceed to conclusion in the Family Court. The RAS Order is  
 15 ambiguous, however, on whether it authorized any of the litigants to record a lis pendens against

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16 <sup>19</sup> Section 362(a) describes eight categories of conduct that are prohibited by the  
 17 automatic stay. The Debtor’s instant motion, however, asserts that Larson violated only Section  
 18 362(a)(3) that prohibits any act to obtain possession of estate property or to exercise control over  
 19 estate property. Debtor maintains that recordation of a lis pendens against property of a  
 20 bankruptcy estate creates a cloud on title in violation of Section 362(a)(3). See Sanctions Motion  
 21 at 9:8-18, citing Leon v. Leon (In re Leon), 2025 WL 863070, at \*5 (B.A.P. 9th Cir. Mar. 19,  
 22 2025); Barnett v. Edwards (In re Edwards), 214 B.R. 613, 618 (B.A.P. 9th Cir. 1997); Brooks-  
 23 Hamilton v. City of Oakland (In re Brooks-Hamilton), 348 B.R. 512, 525 (Bankr. N.D. Cal.  
 24 2006).

25 <sup>20</sup> Unlike her Lien Avoidance Motion, Debtor does not assert that the Post-Petition Lis  
 26 Pendens constitutes a judicial lien that might be subject to avoidance under Section 522(f)(1).  
 27 Instead, Debtor maintains that the Post-Petition Lis Pendens was recorded in violation of the  
 28 automatic stay under Section 362(a)(3) and therefore is void. Instead of seeking to avoid the  
 Post-Petition Lis Pendens under Section 522(f)(1), Debtor seeks sanctions under Section  
 362(k)(1). Therefore, it is unnecessary to address whether a lis pendens constitutes a judicial  
 lien.

<sup>21</sup> There is no dispute that the second lis pendens was recorded on September 11, 2023, in  
 connection with the Larson Civil Action. See discussion at 4 & n.7, supra.

property of the bankruptcy estate, i.e., the Residence. While the case law cited by the Debtor, see note 19, supra, indicate that the unauthorized post-petition recordation of a lis pendens is a violation of Section 362(a)(3), all of the cases are significantly different from the circumstances in the instant case.<sup>22</sup>

In Leon, the individual debtor commenced a voluntary Chapter 11 proceeding, after which her husband commenced a divorce action in California. Approximately five months after the Chapter 11 proceeding was commenced, the husband recorded a lis pendens against the debtor's primary residence. The husband did not seek or obtain relief from stay before recording the lis pendens, nor did he seek or obtain a subsequent order annulling the automatic stay. No stipulation granting relief from stay was ever approved by the bankruptcy court. The bankruptcy court and the Ninth Circuit's Bankruptcy Appellate Panel ("BAP") concluded that the husband's recording of the lis pendens violated Section 362(a)(3) and that sanctions in the amount of \$9,357.50 were appropriate.

In Edwards, the individual debtor commenced a Chapter 7 proceeding while his divorce action was pending in a Washington family court. The debtor obtained a Chapter 7 discharge. Thereafter, the debtor's former wife brought civil contempt proceedings in the family court that included a determination of whether certain obligations, including alimony payments, were encompassed by the Chapter 7 discharge. An evidentiary hearing was scheduled before the family court. Shortly before the hearing, the same debtor filed a Chapter 13 proceeding. The

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<sup>22</sup> As there is no dispute that Larson had knowledge of the pending Chapter 7 proceeding when he recorded the Post-Petition Lis Pendens, the alleged violation of the automatic stay would have been willful within the meaning of Section 362(k)(1). See Goodman v. Knight (In re Goodman), 991 F.2d 613, 618 (9th Cir. 1993) ("A 'willful violation' does not require a specific intent to violate the automatic stay. Rather, the statute provides for damages upon a finding that the defendant knew of the automatic stay and that the defendant's actions which violated the stay were intentional. Whether the party believes in good faith that it had a right to the property is not relevant to whether the act was 'willful' or whether compensation must be awarded."). If a willful violation of the automatic stay had occurred, Debtor would have been entitled to recover her actual damages, including for emotional distress, as well as costs and attorney's fees. See, e.g., America's Servicing Co. v. Schwartz-Tallard, 483 B.R. 313 (D. Nev. 2010) (allowing recovery of emotional distress damages for automatic stay violation as well as attorney's fees incurred in remedying the stay violation).

1 former wife then obtained limited relief from stay in the Chapter 13 proceeding to allow the  
2 scheduled hearing to proceed in the family court, provided that any order or judgment entered by  
3 the family court not be enforced without further order from the bankruptcy court. While both the  
4 Chapter 13 proceeding and the divorce proceeding dragged on, the former wife filed a lis  
5 pendens against the marital residence. Both the bankruptcy court and the BAP concluded that  
6 the order granting relief from stay only authorized the evidentiary hearing to be completed by the  
7 family court but did not authorize recording of the lis pendens. Accordingly, orders were entered  
8 and affirmed for the lis pendens to be voided as in violation of the automatic stay, for the former  
9 wife to be sanctioned \$1,000 for a willful violation of the automatic stay, and for a determination  
10 allowing the former wife's unsecured claim at zero dollars.

11 In Brooks-Hamilton, the individual debtor commenced a Chapter 13 proceeding that  
12 subsequently converted to Chapter 7. After the case was converted, the debtor commenced two  
13 separate civil actions in California state court to enjoin the Chapter 7 trustee's sale of a certain  
14 warehouse building. Both actions were removed to the bankruptcy court. The Chapter 7 trustee  
15 proceeded to sell the warehouse. Only after the bankruptcy court approved the sale, the Chapter  
16 7 trustee discovered that the debtor, post-petition, had recorded two grant deeds and a lis pendens  
17 against the warehouse. In the removed civil actions, the Chapter 7 trustee filed a cross-complaint  
18 seeking, *inter alia*, to avoid the grant deeds as well as the lis pendens. On motions for summary  
19 judgment, the bankruptcy court concluded that the post-petition recordation of the lis pendens  
20 was not an unauthorized transfer of an interest in estate property avoidable under Section 549  
21 because a lis pendens only gives notice of the pendency of legal proceedings affecting title or  
22 possession. The bankruptcy court further concluded, however, that the post-petition recordation  
23 of a lis pendens is an "act to ...exercise control over property of the estate" under Section  
24 362(a)(3) that creates a cloud on title. Because relief from stay had not been obtained by the  
25 debtor, the act violated the automatic stay and the lis pendens was void.

26 In essence, the respondents in Leon and Brooks-Hamilton made no effort to obtain relief  
27 from stay before recording a lis pendens. The respondent in Edwards did obtain relief from  
28 stay before recording a lis pendens, but that relief was limited to completion of a specific

1 evidentiary hearing. Because of that limitation, the bankruptcy court and the BAP in Edwards  
 2 held that the automatic stay still precluded the former wife from recording a lis pendens against  
 3 the marital residence.

4 By contrast in the instant case, Larson recorded a lis pendens in the Dissolution Action  
 5 long before the Debtor ever filed for bankruptcy relief and the former domestic partners  
 6 negotiated the RAS Stipulation with the Trustee for the purpose of allowing “the Family Court  
 7 Case to proceed to conclusion...”<sup>23</sup> On its face, that language is broad enough to include the  
 8 recording of a lis pendens for the purpose of giving notice. Moreover, that language also is  
 9 broad enough to include the very alternative relief that the Debtor now seeks by the instant  
 10 Sanctions Motion: expungement under NRS 14.015 of both the prepetition lis pendens recorded  
 11 by Larson against the Residence, as well as the Post-Petition Lis Pendens.

12 Under the specific circumstances of this case, the court therefore concludes that  
 13 recordation of the Post-Petition Lis Pendens did not violate Section 362(a)(3).<sup>24</sup> Accordingly,  
 14 sanctions under Section 362(k)(1) are not warranted.

## 15 **II. NRS 14.015 Expungement Motion.**

16 Debtor also requests that the Post-Petition Lis Pendens may be expunged under NRS  
 17 14.015. That provision of Nevada law states as follows:

18 1. After a notice of pendency of an action has been recorded, the defendant or, if  
 19 affirmative relief is claimed in the answer, the plaintiff, may request that the court  
 20 hold a hearing on the notice, and such a hearing must be set as soon as is practicable,

21 <sup>23</sup> As set forth in note 11, supra, the language of the RAS Stipulation expressed  
 22 the parties’ concern that “some aspects of the remaining matters pending in the Family  
 23 Court Case arguably involved the division of property pursuant to 11 U.S.C. §  
 24 362(b)(2)(A)(iv), or otherwise, such that the automatic stay remains in place as to it, and  
 25 thus that the Family Court Case may not be able to proceed absent relief from stay.”  
 26 Rather than addressing all that had gone on and all that might go on during the  
 27 Dissolution Action, the parties simply agreed “to allow the Family Court Case to proceed  
 28 to conclusion.”

<sup>24</sup> It is well established that acts in violation of the automatic stay are void, see United  
States v. Schwartz (In re Schwartz), 954 F.2d 569, 573-74 (9th Cir. 1992), and the results are  
 without legal effect. See 40235 Washington S. Corp. v. Lusardi (In re Washington St. Corp.),  
 329 F.3d 1076, 1080 (9th Cir. 2003).

1 taking precedence over all other civil matters except a motion for a preliminary  
2 injunction.

3 2. Upon 15 days' notice, the party who recorded the notice of pendency of the  
4 action must appear at the hearing and, through affidavits and other evidence which  
5 the court may permit, establish to the satisfaction of the court that:

6 (a) The action is for the foreclosure of a mortgage upon the real property  
7 described in the notice or affects the title or possession of the real property  
8 described in the notice;

9 (b) The action was not brought in bad faith or for an improper motive;

10 (c) The party who recorded the notice will be able to perform any conditions  
11 precedent to the relief sought in the action insofar as it affects the title or possession  
12 of the real property; and

13 (d) The party who recorded the notice would be injured by any transfer of  
14 an interest in the property before the action is concluded.

15 3. In addition to the matters enumerated in subsection 2, the party who recorded the  
16 notice must establish to the satisfaction of the court either:

17 (a) That the party who recorded the notice is likely to prevail in the action;

18 or

19 (b) That the party who recorded the notice has a fair chance of success on  
20 the merits in the action and the injury described in paragraph (d) of subsection 2  
21 would be sufficiently serious that the hardship on him or her in the event of a  
22 transfer would be greater than the hardship on the defendant resulting from the  
23 notice of pendency, and that if the party who recorded the notice prevails he or she  
24 will be entitled to relief affecting the title or possession of the real property.

25 4. The party opposing the notice of the pendency of an action may submit counter-  
26 affidavits and other evidence which the court permits.

27 5. If the court finds that the party who recorded the notice of pendency of the action  
28 has failed to establish any of the matters required by subsection 2, the court shall  
order the cancellation of the notice of pendency and shall order the party who  
recorded the notice to record with the recorder of each county in which the notice  
was recorded a copy of the order of cancellation. The order must state that the  
cancellation has the same effect as an expungement of the original notice.

6. If the court finds that the party who recorded the notice of pendency of the action  
has established the matters required by subsection 2, the party opposing the notice  
may request the court to determine whether a bond in an amount to be determined  
by the court would provide adequate security for any damages which the party who  
recorded the notice might incur if the notice were so cancelled and the party  
opposing the notice did not prevail in the action. If the court determines that a bond  
would provide adequate security, the party opposing the notice may post a bond or  
other security in the amount determined by the court. The court shall then order the  
cancellation of the notice of pendency and shall order the party opposing the notice  
to record with the recorder of each county in which the notice was recorded a copy  
of the order of cancellation. The order must state that the cancellation has the same  
effect as an expungement of the original notice.



1 NEV. REV. STAT. 14.015 (1)-(6) (emphasis added). When recordation of a lis pendens is  
2 challenged by the owner of the effected property, the

3 party who records the notice of *lis pendens* must establish to the satisfaction of the  
4 court either: (a) that the party who recorded the notice is likely to prevail in the  
5 action, or (b) that the party who recorded the notice has a fair chance of success on  
6 the merits in the action, that party would be injured by any transfer of an interest in  
7 the property before the action is concluded, and the injury would be sufficiently  
8 serious that the hardship on him or her in the event of a transfer would be greater  
than the hardship on the defendant resulting from the notice of pendency.  
(Emphasis added.)

9 Barnett-Moore v. Fed. Home Loan Mortg. Corp., 2013 WL 315220, at \*5 (D. Nev. Jan.  
10 15, 2013), citing Nev. Rev. Stat. 14.015(3)(a)-(b).

11 The instant Sanctions Motion includes the Debtor's request to expunge the Post-Petition  
12 Lis Pendens under NRS 14.015. That provision specifically concerns the "action" for which the  
13 particular lis pendens was recorded. In this instance, Larson recorded the Post-Petition Lis  
14 Pendens apparently in connection with his appeal to the Nevada Supreme Court regarding the  
15 Family Court's denial of his Motion to Set Aside. While Larson pursued that motion to  
16 ultimately obtain relief from the Divorce Decree, there is no dispute that his Motion to Set Aside  
17 was denied by the Family Court and that Larson filed a notice of appeal from that denial.

18 Larson has filed a response to the instant Sanctions Motion which includes his  
19 declaration under penalty of perjury attesting that he reviewed the RAS Order and did not intend  
20 to violate the automatic stay. See discussion at note 18, supra. With respect to the State Court  
21 Appeal, Larson only attests that the appeal is actively pending. See Larson Sanctions  
22 Declaration at ¶ 6. While there is no dispute that the appeal is pending, there is no evidence  
23 demonstrating nor explanation given why Larson is likely to prevail on the merits of his appeal.  
24 Nor do his arguments and assertions establish or even intimate that he has a fair chance of  
25 success on the merits of his appeal. On this record, the court concludes that Larson has failed to  
26 meet his burden under NRS 14.015(3)(a). In short, Larson has not met the requirements under  
27 NRS 14.015 to maintain the subject lis pendens that he recorded against the Residence.  
28 Accordingly, the court will grant the Debtor's motion to expunge the Post-Petition Lis Pendens.

