Honorable Mike K. Nakagawa
United States Bankruptcy Judge

Entered on Docket
June 06, 2025

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

* * * * * *

In re:	)	Case No.: 24-14345-MKN
	)	Chapter 7
PAULENE KAY TRAUTMAN,	)	
	)	
Debtor.	)	Date: November 6, 2024
	)	Time: 2:30 p.m.
	)	

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[1]

On November 6, 2024, the court heard the 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 ("Motion") brought in the above-captioned case. The appearances of counsel were noted on the record. After arguments were presented, the matter was taken under submission.

BACKGROUND[2]

[1] In this Order, all references to "ECF No." are to the number assigned to the documents filed in this proceeding as they appear on the docket maintained by the clerk of court. All references to "Section" are to the provisions of the Bankruptcy Code, 11 U.S.C. §§ 101-1532. 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 "Evidence Rule" are to the Federal Rules of Evidence.

[2] Pursuant to Evidence Rule 201(b), the court takes judicial notice of the documents and information appearing on the docket maintained by the court clerk in the above-captioned case. See United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980). See also In re Blas, 614 B.R. 334, 339 n.27 (Bankr. D. Alaska 2019) ("This court may take judicial notice of the docket of other courts.").

Paulene Kay Trautman ("Debtor") and Andrew Larson ("Larson") were once domestic partners under Nevada law. The relationship did not last and a proceeding to dissolve the domestic partnership ("Dissolution Action") was commenced in the Eighth Judicial District Court, Clark County, Nevada ("Nevada State Court"). Debtor subsequently commenced the above-captioned voluntary Chapter 7 proceeding. The instant Motion followed.[3]

A. The Dissolution Action.

Debtor is sixty years old and employed as a dental assistant in Las Vegas. See Debtor 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 agent doing business under the name "HCR Beverly Hills" and also under the name 777JC, LLC, a Nevada limited liability company, of which he is listed as manager. Id. at ¶ 3.

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

On August 31, 2017, Debtor, as an unmarried woman, and her parents, Paul and Janice Madrid, as joint tenants, acquired title to a single-family residence commonly known as 3511 Bagnoli Court, Las Vegas, Nevada 89141, APN 177-32-316-022 (the "Residence"). See Debtor Declaration at ¶ 5. The Residence is encumbered by a first Deed of Trust securing a residential loan currently serviced by PennyMac Loan Services LLC ("PennyMac").[4]

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[3] On October 1, 2024, Debtor filed the instant Motion, accompanied by her declaration in support ("Debtor Declaration") as well as the declaration of her bankruptcy counsel, Matthew Zirzow ("Zirzow Declaration"). (ECF Nos. 17, 18, and 19). On October 11, 2024, Larson, in pro se, filed an opposition to the Motion ("Opposition"). (ECF No. 24). On October 24, 2024, Larson, in pro se, filed an amended opposition to the Motion ("Amended Opposition"). (ECF No. 28). On October 25, 2024, Debtor filed a reply ("Reply") accompanied by her supplemental declaration ("Debtor Supplemental Declaration."). (ECF Nos. 29 and 30).

[4] Debtor attests that PennyMac was owed approximately $223,000 when she commenced her Chapter 7 proceeding and is secured by a deed of trust recorded on the Residence on August 31, 2017 as Instrument No. 20170831-0002949 in the real estate record of Clark County, Nevada. See Debtor 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.

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

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

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

On or about September 11, 2023, Larson recorded against the Debtor an additional Notice of Lis Pendens in the Clark County real estate records as Instrument No. 20230911-0000304. The additional Notice of Lis Pendens purportedly is based on a claim to an interest in the Residence arising from his claims for relief alleged in the Larson Civil Action.[5] See Debtor Declaration at ¶ 12.[6]

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

On April 5, 2024, the Family Court entered a Stipulated Decree of Termination of Domestic Partnership; Dismissal of Third Party Complaint With Prejudice; and Mutual Waivers and Releases (the "Divorce Decree"). Pursuant to the Divorce Decree, the parties agreed, *inter alia,* that their domestic partnership would be terminated, that the Debtor was awarded the

[5] In this Order, the Notice of Lis Pendens recorded in connection with the Dissolution Action as well as the Notice of Lis Pendens recorded in connection with the Larson Civil Action may be referenced jointly as "the Lis Pendens."

[6] A copy of the additional Notice of Lis Pendens is attached as Exhibits 8 to the Debtor Declaration.

Residence as her sole and separate property, and that Larson would receive the sum of $17,000 from the Debtor from her retirement savings in full settlement and release of all matters between the parties. See Debtor Declaration at ¶ 15.

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

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

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

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

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

On August 2, 2024, 2024, Larson, in pro se, separately filed another Motion to Set Aside[7] which was set for hearing on August 12, 2024. See Debtor Declaration at ¶ 22.

B. The Bankruptcy Proceeding.

On August 23, 2024, Debtor filed her voluntary Chapter 7 petition ("Petition"). (ECF No. 1). The case was assigned for administration to Chapter 7 bankruptcy trustee Lenard E. Schwartzer ("Trustee"). A Notice of Chapter 7 Bankruptcy Case – No Proof of Claim Deadline ("Bankruptcy Notice") was issued, initially scheduling a meeting of creditors for September 25, 2024, and a deadline of November 25, 2024, for interested parties to object to the Debtor's Chapter 7 discharge or to object to the discharge of a particular debt. (ECF No. 7).[8] Attached to

[7] Hereafter, all references in this order to the "Motion to Set Aside" will encompass both the motion filed by Debtor's counsel on April 26, 2024, and the additional motion filed by the Debtor in pro se on August 2, 2024.

[8] 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

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.[9]

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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 Declaration at ¶ 2.

[9] 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 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

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 Declaration at ¶ 23.

On September 4, 2024, an order was entered in the bankruptcy court approving a "Stipulation for Relief From the Automatic Stay to Permit Family Court Case to be Concluded." (ECF No. 12). The stipulation was reached between the Debtor, 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 Declaration at ¶ 24.[10]

On September 25, 2024, the Debtor's 341 first meeting of creditors was held and concluded.[11] (ECF No. 16).

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

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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 Declaration at ¶ 3.

[10] On or about October 8, 2024, the Family Court entered its order denying Larson's Motion to Set Aside the Divorce Decree ("Order Denying Set Aside"). See Debtor Supplemental Declaration at ¶ 2 and Exhibit 19. Larson apparently asserted that he would appeal the Family Court's denial of his Motion to Set Aside, but the Debtor attests that Larson has not obtained a stay pending appeal of the Divorce Decree or the Family Court's denial of his Motion to Set Aside. See Debtor Declaration at ¶ 25. The record before the Family Court indicates that on November 5, 2024, Larson filed in pro se a notice of appeal from the Order Denying Set Aside.

[11] 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.

On October 1, 2024, Debtor filed the instant Motion, along with the Debtor Declaration and Zirzow Declaration. The Motion seeks to avoid the Lis Pendens with respect to the Residence under Section 522(f)(1) or, in the alternative, to expunge the Lis Pendens under Nevada law. The Motion was noticed to be heard on November 6, 2024. (ECF No. 20).[12]

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

On October 24, 2024, Larson filed an amended opposition ("Larson Opposition") to include a "Declaration of Creditor, Andrew Larson." (ECF No. 28).

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

DISCUSSION

The court has reviewed and considered the materials and written testimony offered by the parties[13] as well as the written and oral arguments presented. Based on that review and resulting considerations, the court concludes that the Motion must be denied in part and granted in part.

I. SECTION 522(f) MOTION TO AVOID LIS PENDENS

"A debtor who is entitled to a homestead exemption may avoid liens on the property covered by the exemption." In re O'Connell, 2020 U.S. Dist. LEXIS, 174800, at *6 (D. Mont., Sept. 23, 2020). Section 522(f) provides the statutory basis to avoid a lien against a debtor's homestead as well as other property:

> (1) Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the

[12] The Debtor attests that she has continuously lived in the Residence as her residence and domicile since acquiring it in 2017. See Debtor Declaration at ¶ 27.

[13] In response to the Motion, Larson filed his initial Opposition on October 11, 2024, and then an Amended Opposition on October 24, 2024. See note 3, supra. The difference between the two documents is a "Declaration of Creditor, Andrew Larson" appearing as page 14 of 16 of the Amended Opposition. In that declaration, Larson attests under penalty of perjury only as follows: "I Andrew Larson, to the best of my knowledge, believe everything in this brief to be true and correct."

> extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—
>
> (A) a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5)…

11 U.S.C. § 522(f) (Emphasis added).

Here, the Debtor has claimed a homestead exemption in the Residence and Larson has recorded the Lis Pendens in the real property records of Clark County. The Debtor maintains that the Lis Pendens acts as a lien on her Residence that is avoidable under Section 522(f)(1). The Ninth Circuit Court of Appeals has discussed the conditions under which a debtor may avoid a lien under that provision:

> [U]nder § 522(f)(1), a debtor may avoid a lien if three conditions are met: (1) there was a fixing of a lien on an interest of the debtor in property; (2) such lien impairs an exemption to which the debtor would have been entitled; and (3) such lien is a judicial lien…The debtor has the burden of demonstrating that he is entitled to avoid a judicial lien under § 522(f)(1).

Estate of Catli v. Catli (In re Catli), 999 F.2d 1405, 1406 (9th Cir. 1993) (citations omitted). See also Culver, LLC v. Chiu) In re Kai-Ming Chiu, 304 F.3d 905, 908 (9th Cir. 2002). This test was later restated as follows:

> There are four basic elements of an avoidable lien under § 522(f)(1)(A): "First there must be an exemption to which the debtor 'would have been entitled under subsection (b) of this section.' 11 U.S.C. § 522(f). Second, the property must be listed on the debtor's schedules and claimed exempt. Third, the lien must impair that exemption. Fourth, the lien must be . . . a judicial lien."

Green v. Hapo Cmty. Credit Union (In re Green), 2013 WL 4055846, at *4 (B.A.P. 9th Cir. Aug. 12, 2013), quoting Goswami v. MTC Distribution (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003).

In the present case, Larson has recorded the Lis Pendens against the Residence in which the Debtor is a joint tenant along with her parents. Debtor has claimed a homestead exemption in the Residence and now seeks to avoid the Lis Pendens pursuant to Section 522(f)(1). The question before the court is whether the Lis Pendens on the Residence meets the conditions for avoidance under Section 522(f). If it is avoided, then it no longer impairs the Debtor's

homestead exemption. If the Lis Pendens is not avoided under Section 522(f)(1), then it remains in effect unless it is expunged under Nevada law.

In this instance, the first and second elements of the restated test under Section 522()(1) are met because the Debtor claimed the Residence as exempt on her Schedule "C," and no party in interest objected to the claimed exemption. As a result, the Residence is exempt by operation of Section 522(l).

The third element, however, is not met because the Debtor has not satisfied her burden of proof that the Lis Pendens impairs her homestead exemption in the Residence. Section 522(f)(2) provides that a lien impairs an exemption "to the extent that the sum of (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. §522(f)(2)A). In this instance, there is no amount assigned to the Lis Pendens and no means to determine that it contributes to a sum that exceeds the amount of the homestead exemption. According to her property Schedule "A/B," the total fair market value of the Residence is $395,000 and the value of the Debtor's one-third joint tenancy interest is $130,350. On her exemption Schedule "C," the Debtor claimed an exemption of $56,814.45 rather than "100% of fair market value, up to any applicable statutory limit."[14] On her secured creditor Schedule "D," she attests that $222,835 is owed to PennyMac. The sum of the PennyMac lien ($222,835), the apparent amount of the Lis Pendens ($0.00), and the Debtor's claimed exemption ($56,814.45) is $279,649.45. That sum does not exceed the total value of the Residence ($395,000) but apparently does exceed the value of the Debtor's joint tenancy interest ($130,350). Because there is no evidence establishing whether the Debtor and her parents are jointly and severally liable for the PennyMac loan, it is unclear whether the Lis Pendens impairs the Debtor's homestead exemption at all.

The fourth element also is not met because the Debtor has failed to establish that the Lis Pendens constitutes a judicial lien within the meaning of Section 522(f)(1). The term "judicial

[14] $605,000 of equity in a residence is the statutory limit for a Nevada homestead. See NEV.REV.STAT. 115.010(2).

lien" means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding. See 11 U.S.C. § 101(36). Many federal courts have considered a lis pendens to be closely aligned with a judicial lien, but also recognize that they are not the same.[15] Bankruptcy courts look to the structure of a lis pendens under state law for guidance on whether to treat a lis pendens as an avoidable judicial lien under the Bankruptcy Code.[16] In Nevada courts, a lis pendens is described in a similar manner to States that do not categorize a lis pendens as a judicial lien.[17]

For example, in Bradshaw, this bankruptcy court looked to Nevada state law to interpret the purpose of a lis pendens, concluding that "[i]ts purpose is to give constructive notice to purchasers or encumbrancers that a dispute involving title or liens is ongoing." 315 B.R. at 888.

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[15] See In re Bradshaw, 315 B.R. 875, 889 (Bankr. D. Nev. 2004). See also United States v. Property Identified as Lot Numbered 718, 20 F.Supp.2d 27, 37 (D.D.C. 1998) ("Unlike garnishment, replevin, and attachment, a lis pendens notice does not operate as a lien"); Stewart Title Guar. Co. v. Sanford Title Servs., LLC, 2011 U.S. Dist. LEXS 73581, at *6-7 (D. Md. July 8, 2011) ("A lis pendens is… not notice of an actual lien."); Tate v. Zaleski, 2022 U.S. Dist. LEXIS 28631, at *9 (S.D. Miss. Feb. 17, 2022) ("The legal function of Lis Pendens is to give notice to the world of an alleged claim of a lien… [The Lis Pendens] does not constitute an independent basis for imposition of a lien."). See generally 14 POWELL ON REAL PROPERTY § 82A.01 (2025) ("The effect of the lis pendens doctrine, though similar in some respects to the effects of a lien, judicial stay or the recording act, is unique and distinguishable from each of these related legal concepts.").

[16] See, e.g., In re Davis, 503 B.R. 609, 618 (Bankr. M.D. Pa. 2013) ("The Code defines a 'judicial lien' as a 'lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.' 11 U.S.C. §101(36). In contrast, under Pennsylvania law, the effect of a lis pendens is not to establish actual liens upon the properties affected… [A]ll it does is give third parties notice…").

[17] See Tahican, LLC v. Eighth Jud. Dist. Ct., 523 P.3d 550, 553 (Nev. 2023) ("A lis pendens serves as constructive notice to potential purchasers or lenders that the real property described in the lis pendens is the subject of a pending lawsuit."); In re Davis, 503 B.R. at 618 ("[T]he lis pendens filed by Dunmore as an avoidable judicial lien, which is not technically correct… It follows that a lis pendens is not a judicial lien as defined in the Bankruptcy Code."). See also Wolf v. Chenich (In re Chenich), 87 B.R. 101, 106-107 (B.A.P. 9th Cir. 1988) ("However, a lis pendens is not a lien in the property or a vested right. It is merely a notice of litigation which is dependent upon the outcome of that litigation. One cannot foreclose upon a lis pendens, only upon a lien. For a lis pendens to give one vested rights, one must first obtain a final judgment.").

Additionally, Judge Marlar concluded that "a lis pendens' purpose is not to obtain a type of pre-judgment attachment which can later be used in the eventual collection of a judgment." Id. (Emphasis added.) Here, Larson recorded notices of lis pendens with respect to the Debtor's residence. In light of the purpose of a lis pendens, the court concludes that the Lis Pendens in this matter should not be treated as a judicial lien under Section 522(f)(1).

Based on the foregoing, the court concludes that the Debtor has failed to prove two out of the four elements required for relief under Section 522(f). Her request to avoid the Lis Pendens under Section 522(f)(1) must be denied.

II. NRS 14.015 EXPUNGEMENT MOTION

Although they are not judicial liens for the purposes of Section 522(f)(1), the Lis Pendens may be expunged under NRS 14.015. That provision states as follows:

> **1.** After a notice of pendency of an action has been recorded, the defendant or, if affirmative relief is claimed in the answer, the plaintiff, may request that the court hold a hearing on the notice, and such a hearing must be set as soon as is practicable, taking precedence over all other civil matters except a motion for a preliminary injunction.
> **2.** Upon 15 days' notice, the party who recorded the notice of pendency of the action must appear at the hearing and, through affidavits and other evidence which the court may permit, establish to the satisfaction of the court that:
> **(a)** The action is for the foreclosure of a mortgage upon the real property described in the notice or affects the title or possession of the real property described in the notice;
> **(b)** The action was not brought in bad faith or for an improper motive;
> **(c)** The party who recorded the notice will be able to perform any conditions precedent to the relief sought in the action insofar as it affects the title or possession of the real property; and
> **(d)** The party who recorded the notice would be injured by any transfer of an interest in the property before the action is concluded.
> **3.** In addition to the matters enumerated in subsection 2, the party who recorded the notice must establish to the satisfaction of the court either:
> **(a)** That the party who recorded the notice is likely to prevail in the action; or
> **(b)** That the party who recorded the notice has a fair chance of success on the merits in the action and the injury described in paragraph (d) of subsection 2 would be sufficiently 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, and that if the party who recorded the notice prevails he or she will be entitled to relief affecting the title or possession of the real property.

> **4.** The party opposing the notice of the pendency of an action may submit counter-affidavits and other evidence which the court permits.
> **5.** If the court finds that the party who recorded the notice of pendency of the action 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.

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

> party who records the notice of *lis pendens* must establish to the satisfaction of the court either: (a) that the party who recorded the notice is likely to prevail in the action, or (b) that the party who recorded the notice has a fair chance of success on the merits in the action, that party would be injured by any transfer of an interest in the property before the action is concluded, and the injury would be sufficiently 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.)

Barnett-Moore v. Fed. Home Loan Mortg. Corp., 2013 WL 315220, at *5 (D. Nev. Jan. 25, 2013), citing Nev. Rev. Stat. 14.015(3)(a)-(b).

The instant Motion includes the Debtor's request to expunge the Lis Pendens under NRS 14.015. That provision specifically concerns the "action" for which the subject lis pendens was recorded. In this instance, it is clear that the Lis Pendens were recorded by Larson in connection with the Dissolution Action as well as the Larson Civil Action pending in the Nevada State Court. There is no dispute that the Dissolution Action was resolved by entry of the stipulated Divorce Decree and the Larson Civil Action was resolved by a voluntary dismissal. While

Larson has sought relief from the Divorce Decree, there is no dispute that his Motion to Set Aside was denied by the Family Court and that he filed a notice of appeal from that denial.

Larson has filed a response to the instant Motion which includes his declaration under penalty of perjury attesting only that "to the best of my knowledge, believe everything in this brief to be true and correct." See note 13, supra. While it is unsurprising that Larson believes his legal arguments and assertions to be correct, his beliefs do not constitute evidence demonstrating that he is likely to prevail on the merits of his claims on appeal in the Dissolution Action or the Larson Civil Action. Nor do his arguments and assertions establish or even intimate that he has a fair chance of success on the merits. On this record, the court concludes that Larson has failed to meet his burden under NRS 14.015(3)(a).

In sum, Larson has not met the requirements under NRS 14.015 to maintain the lis pendens he has recorded against the Residence. Accordingly, the court will grant the Debtor's motion to expunge the Lis Pendens.

IT IS THEREFORE ORDERED that the Motion to Avoid Lis Pendens as Impairing the Debtor's Homestead Exemption Pursuant to 11 U.S.C. § 522(f), Docket No. 17, be, and the same hereby is, **DENIED.**

IT IS FURTHER ORDERED that the Debtor's Motion to Cancel and Expunge Lis Pendens Pursuant to NRS 14.015, Docket No. 17, be, and the same hereby is, **GRANTED.**

IT IS FURTHER ORDERED the Notice of Lis Pendens recorded in the Clark County real property records as Instrument No. 20220915-0002763 is **CANCELLED,** and this cancellation has the same effect as expungement of the original Notice of Lis Pendens.

IT IS FURTHER ORDERED the Notice of Lis Pendens recorded in the Clark County real property records as Instrument No. 20230911-0000304 is **CANCELLED** and this cancellation has the same effect as expungement of the original Notice of Lis Pendens.

IT IS FURTHER ORDERED that **no later than June 13, 2025**, Andrew D. Larson shall record a copy of the instant Order in the Clark County real property records.

IT IS FURTHER ORDERED that in the event that a copy of the instant Order is not timely recorded in the Clark County real property records, Paulene Kay Trautman is hereby authorized to do so.

Copies sent via CM/ECF ELECTRONIC FILING

Copies sent via BNC to:
PAULENE KAY TRAUTMAN
3511 BAGNOLI CT.
LAS VEGAS, NV 89141-3469

ANDREW LARSON
PO BOX 94512
LAS VEGAS, NV 89193-4512

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