**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

**LOS ANGELES DIVISION**

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| In re:<br><br>Jesse Lee Ross<br>Cheryl Lynn Ross<br><br>Debtor(s). | Case No.: 2:26-bk-11019-BB<br><br>CHAPTER 7<br><br>**MEMORANDUM DECISION AND ORDER DENYING EMERGENCY MOTION FOR STAY PENDING APPEAL**<br><br>(No hearing required) |

Debtors Jesse Lee Ross and Cheryl Lynn Ross (jointly, the "Debtors") have filed an "Emergency Motion for Stay Pending Appeal pursuant to Federal Rule of Bankruptcy Procedure 8007" [Docket No. 33] (the "Motion"), which seeks a stay of the enforcement of this Court's May 5, 2026 "Order Granting Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 (Real Property)" (the "May 5 Order"), pending resolution of their appeal of that order (BAP No. CC-26-1114) (the "Appeal"). More specifically, by way of the Motion, the Debtors ask the Court (1) to enjoin MidFirst Bank from conducting a trustee's sale of the Debtors' residence at 1552 West Avenue H5, Lancaster, California 93534 (the "Property") pending the outcome of the Appeal and (2) to waive or reduce to a nominal amount the bond that they would otherwise be required to post in order to obtain a stay pending appeal in light of their financial circumstances. The Motion was filed on July 31, 2026 -- approximately two and one-half months after the Debtors filed their notice of appeal on May 18, 2026.

Having reviewed the Motion, the declaration of debtor Jesse Lee Ross in support thereof, the Court's records and files in the above chapter 7 case, and the relevant legal authorities, the Court finds that the Debtors have failed to meet the threshold requirements for a stay pending appeal under the applicable four-factor test. Accordingly, the Motion is denied for the reasons set forth below.

## I

## PROCEDURAL BACKGROUND

On February 3, 2026, the Debtors filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code. On March 13, 2026, the chapter 7 trustee filed a Report of No Distribution [Docket No. 14], certifying that there is no property available for distribution to creditors.

On April 6, 2026, creditor MidFirst Bank ("MidFirst") filed a motion for relief from the automatic stay with respect to the Property [Docket No. 15] (the "MidFirst Motion"). The hearing on the MidFirst Motion was set for May 5, 2026. On May 1, 2026, the Debtors filed a late opposition to the motion [Docket No. 18] (the "Opposition"), arguing that: (1) MidFirst failed to provide legally required notice of loan transfer under TILA and RESPA; (2) the monthly payment nearly doubled without proper disclosure; (3) MidFirst's own evidence showed that the Property was worth only slightly less than the total amount of MidFirst's lien against it (debt of $440,566.08 against an alleged property value of $440,000); and (4) the foreclosure proceedings involved improper transfer of title and lack of required borrower contact under California law. The Debtors did not offer any evidentiary support for their late-filed Opposition. Instead, their Opposition was accompanied by a letter from the Debtors that read, "Dear Your Honor: Do [sic] to our frailty and our current poverty, we are unable to handle any debt obligation. Our current situation of ongoing treatments and surgeries has our health in a fragile state. So your Honor, we are asking for grace due to our current circumstances." Opposition, at p. 5.

On May 5, 2026, the Court entered the May 5 Order granting the MidFirst Motion. The Court found that MidFirst was entitled to relief from stay because the undisputed facts demonstrated that there was no equity in the Property and that the Property was not necessary for an effective reorganization, as this is a chapter 7 liquidation case and not a reorganization. In addition, the Court noted that the Debtors had made no payments on the loan for more than 26 months; that the notice of default was originally recorded on January 28, 2025; and that the notice of sale was first recorded on October 17, 2025. On these facts, the Court observed that, if the Debtors wanted to assert that the MidFirst failed to comply with legal requirements, they had had more than ample opportunity—26 months of non-payment and over a year since the notice of default—to retain counsel to assert whatever rights and claims they may have. The Court noted further that the grant of relief from stay does not adjudicate the merits of notice violations or consumer protection claims, but merely permits the parties to exercise whatever rights and remedies they may have under applicable nonbankruptcy law against one another.

To give the Debtors yet another opportunity to pursue their claims in nonbankruptcy court and to seek injunctive relief in connection with that action, the Court's May 5 Order did not waive the 14-day stay imposed by Federal Rule of Bankruptcy Procedure 4001(a)(3) and provided that MidFirst could not conduct a foreclosure sale before June 5, 2026. Apparently, the Debtors did not avail themselves of the further opportunity to seek injunctive relief from a nonbankruptcy forum. Instead, the Debtors appealed the May 5 Order to the Bankruptcy Appellate Panel.

On or about July 28, 2026, MidFirst scheduled or attempted to conduct a trustee's sale of the Property. That sale was postponed or did not go forward as scheduled. (The Debtors have not provided any information as to the reason for any postponement.) On July 31, 2026, the Debtors filed the instant Motion. The Debtors have not previously sought a stay pending appeal from this Court.

## II

## LEGAL STANDARD

Federal Rule of Bankruptcy Procedure 8007(a)(1) requires a party seeking a stay pending appeal to move first in the bankruptcy court for a stay of the bankruptcy court's judgment, order, or decree pending appeal. Under that rule, the bankruptcy court may suspend or order the continuation of other proceedings in the case or issue any other appropriate order during the pendency of an appeal to protect the rights of all parties in interest. The court may condition relief on filing a bond or other security with the bankruptcy court.

In deciding whether to grant a stay pending appeal, courts in the Ninth Circuit apply a four-factor test that considers: (1) whether the movant has made a strong showing that he is likely to succeed on the merits; (2) whether the movant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. Stehrenberger v. Stehrenberger (In re Stehrenberger), 651 B.R. 454 (Bankr. D. Idaho 2023). A stay is not a matter of right but is instead an exercise of judicial discretion dependent upon the circumstances of the particular case. The party requesting the stay bears the burden of demonstrating that the circumstances justify the requested exercise of the court's discretion. Flores v. Barr, 977 F.3d 742 (9th Cir. 2020).

The Court has discretion to grant a stay pending appeal under Rules 8007 and 7062(c) without requiring the posting of a supersedeas bond. The Court is free to fashion a remedy other than requiring the posting of a bond where the appellant's financial condition prevents it from obtaining such a bond. In re Byrd, 172 B.R. 970 (Bankr. W.Wa. 1994). A supersedeas bond is intended to indemnify the party who was successful in the bankruptcy court against loss caused by an attempt to reverse the decision upon appeal. Martinson v. Towe (In re Towe), 1994 Bankr. LEXIS 1885 (Bankr. Mon. 1994).

## III

## ANALYSIS

The Debtors argue that they have satisfied all four factors warranting a stay. Specifically, they contend they have a substantial likelihood of success on the merits based on multiple grounds raised in the Appeal, including automatic stay violations, RESPA notice violations, defective assignment, simultaneous default and transfer without notice, and unexplained payment increases. They assert they will suffer immediate and irreparable harm through the permanent loss of their home; that the balance of harms favors them because MidFirst's interest is merely financial; and that the public interest favors preserving the integrity of the bankruptcy and appellate process. The Court finds that the Debtors have failed to make the minimum permissible showing required under the applicable four-factor test.

### A. The Debtors Have Not Demonstrated a Likelihood of Success on the Merits

The Debtors report in the Motion that their Opening Brief before the BAP identifies several grounds for reversal of the Stay Relief Order, including violations of the automatic stay, RESPA notice violations, defective assignment and lack of standing, simultaneous default and transfer without notice in violation of due process, and unexplained payment increases. The Debtors argue they need not prove with certainty that they will certainly prevail on these theories, but only that the Appeal raises serious, non-frivolous questions going to the merits. Motion, p. 3.[1]

The Debtors have not satisfied even the threshold showing of serious legal questions. First, the record does not demonstrate that the issues raised on appeal were adequately developed below. The Opposition was filed late and consisted primarily of

[1] The Court is unable to provide the specific line number for references to the Motion as, in violation of the Court's local rules, the Motion does not contain line numbers, or even page numbers for that matter. It is also single-spaced and printed with a font that is significantly smaller than the 12-point font required by Supplement 9004-1 to the Central Guide, TCGSupp9004-1_Form-and-Format-of-Documents-to-be-Filed.pdf.

generalized assertions about federal lending notice requirements and alleged violations without any support or documentary evidence. At the May 5 hearing, the Court noted that, if the Debtors wanted to assert that the MidFirst failed to comply with legal requirements, the Debtors had had more than ample opportunity—26 months of non-payment and over a year since the notice of default—to retain counsel to assert whatever rights and claims they may have.

Second, the grant of relief from stay does not adjudicate the substantive merits of notice violations, assignment defects, or consumer protection claims. As this Court observed at the May 5 hearing, the grant of relief from stay merely permits the parties to exercise whatever rights and remedies they may have under applicable nonbankruptcy law. If the Debtors have a theory under which the MidFirst should not be permitted to foreclose, they should commence an action in state court and seek an injunction under the usual standards for obtaining injunctive relief. The May 5 Order does not prevent the Debtors from pursuing such claims; it simply terminates the stay that arose automatically upon the filing of their bankruptcy case. It does not preclude another court from granting injunctive relief and imposing a new stay if warranted on these facts. The Court's May 5 Order represents merely a determination that one or more of the standards set forth in Bankruptcy Code section 362(d) for obtaining relief from the automatic stay had been satisfied.

Third, the substantive arguments raised by the Debtors are matters of nonbankruptcy law—RESPA notice requirements, TILA transfer disclosure, California foreclosure procedure, and assignment validity—that are not customarily resolved on the merits in the context of a bankruptcy court's adjudication of whether grounds exist for relief from stay under 11 U.S.C. § 362(d). Here, the Debtors do not dispute that they had made no payments for over 26 months, that the notice of default was recorded in January 2025, and that the notice of sale was first recorded in October 2025. The Court's order was based on this extensive payment default and lack of equity, and on the fact that there was no prospect for an effective reorganization as this is a chapter 7 case, not on a determination that MidFirst had complied with all federal and state lending requirements.

Fourth, the Debtors' argument regarding minimal negative equity ($566.08 against a property value of $440,000) does not demonstrate error in the Court's decision. When equity is negligible or nonexistent, and there can be no reorganization because the debtor is in chapter 7, there is no reason for the stay to remain in effect. The chapter 7 trustee will not be able to generate funds for distributions to creditors by selling the Property, and, by the time of the hearing on the MidFirst Motion, the trustee had already filed a Report reflecting that there would be no distributions to creditors. In short, none of the arguments that the Debtors have advanced has any tendency to show any likelihood that the May 5 Order will be reversed on appeal.

The Debtors have not demonstrated a reasonable probability or fair prospect of success on the merits, nor have they shown that the Appeal raises serious legal questions sufficient to warrant a stay. At most, the Appeal raises arguments about consumer protection compliance that the Debtors failed to develop adequately below and that are properly addressed in nonbankruptcy proceedings, not through reversal of the May 5 Order.

B. **The Debtors Have Not Demonstrated That Irreparable Injury Is the Probable Outcome Absent a Stay**

The Debtors assert that they will suffer immediate and irreparable harm—the permanent loss of their home through a non-judicial foreclosure sale—absent a stay, and that, if the Property is sold while the Appeal is pending, the Appeal will be rendered moot as a practical matter. This argument mischaracterizes the nature of irreparable injury in this context.

Here, the threatened foreclosure sale is the direct consequence of the Debtors' own non-payment for more than 26 months, not an injury caused by the Court's order granting relief from stay. The Debtors had notice of default in January 2025 and notice of sale in October 2025, yet took no action to cure the default, seek loan modification, or otherwise protect their property interest until filing bankruptcy in February 2026—after foreclosure proceedings were already well underway.

The Court's May 5, 2026 order expressly prohibited MidFirst from conducting a foreclosure sale before June 5, 2026, providing the Debtors with an additional month to seek injunctive relief or to otherwise protect their interests. The Debtors did not move for a stay during that window or for nearly two months thereafter. The Debtors have not shown that irreparable injury is the more probable or likely outcome if the stay is denied; the injury they claim is the natural consequence of their own payment default and procedural delay.

C. **The Balance of Harms Does Not Favor the Debtors**

The Debtors assert that any harm to MidFirst from a temporary stay is limited and compensable, while they face the total and irreversible loss of their home, and therefore the balance of equities favors preserving the status quo. This argument fails for several reasons.

First, the Debtors have made no offer of adequate protection to the creditor. The Motion states that the Debtors are "willing to maintain property insurance and to keep current on property taxes during the pendency of the stay as non-monetary adequate protection," but offers no plan for addressing the 26 months of missed payments or providing any compensation to the creditor for ongoing delay. (And, in the letter attached to the Opposition, they represent that they are "unable to handle any debt obligation.") The Debtors have not made a single payment on the loan in over two years, and there is no indication in the record that they have the ability to resume payments or to provide meaningful adequate protection.

Second, the Debtors' request to waive any bond requirement or impose only a nominal bond is inconsistent with the purpose of a supersedeas bond. A supersedeas bond is intended to indemnify the party who was successful in the bankruptcy court against loss caused by an attempt to reverse the decision upon appeal. While the Court has discretion to waive the bond requirement or allow alternative security where the appellant's financial condition prevents obtaining a bond, the Debtors have not offered any alternative security or adequate protection arrangement. The Debtors merely invoke their status as chapter 7 debtors of limited financial means without proposing any mechanism to protect the creditor's interest.

Third, the creditor's interest in enforcing its remedies after more than two years without payments is substantial. The notice of default was recorded over 18 months ago, and the notice of sale was first recorded more than nine months ago. The creditor has been delayed repeatedly—first by the foreclosure process itself, then by the bankruptcy filing, and now by this late-filed stay request. The Debtors' argument that the creditor's interest is "fundamentally financial and can be protected through adequate protection payments, a supersedeas bond, or other conditions" ignores the fact that the Debtors are not offering any of these things, or any other form of meaningful compensation.

Where the movant has made a lesser showing of likelihood of success, the movant must show that the balance of hardships tips sharply in its favor. The Debtors have not made this showing. The harm they face—foreclosure after 26 months of non-payment—is not the result of the Court's order but of their own payment default. The creditor, by contrast, has been delayed for nearly two years and has received no compensation. The balance of harms does not favor the Debtors.

D. **The Public Interest Does Not Favor a Stay**

The Debtors contend that the public has a strong interest in ensuring that the bankruptcy and appellate process is not rendered meaningless by a race between a debtor's appeal and a creditor's sale, and that permitting a foreclosure sale to proceed before the BAP can rule undermines confidence in the integrity of the bankruptcy court and appellate system. This argument is unpersuasive.

The public interest analysis must account for the efficient administration of bankruptcy cases and respect for creditors' rights under applicable nonbankruptcy law. Granting a stay under the circumstances presented here would reward debtors who make no payments for over two years, file bankruptcy after foreclosure proceedings are already underway, wait two months after appealing to seek a stay, and offer no adequate protection or security to the creditor. Such a result would undermine, rather than promote, confidence in the bankruptcy system.

The public interest lies in ensuring that stays pending appeal are granted only when the movant satisfies the threshold requirements for such extraordinary relief. The Debtors have not made the minimum permissible showing with respect to likelihood of success or irreparable injury. Granting a stay under these circumstances would not serve the public interest.

E. **No Bond or Adequate Protection Has Been Offered**

The Debtors request that the Court waive any bond requirement in light of their financial circumstances as chapter 7 debtors, or, in the alternative, set only a nominal bond. While the Court has discretion to waive the bond requirement or allow alternative security where the appellant's financial condition prevents obtaining a bond, such relief is appropriate only where the other stay factors have been satisfied.

Here, the Debtors have failed to meet the threshold requirements for a stay. They have not demonstrated likelihood of success on the merits, have not shown that irreparable injury is the probable outcome absent a stay, and have not established that the balance of hardships tips sharply in their favor. Under these circumstances, the question of bond or adequate protection is moot. Even if the Court were inclined to waive a bond requirement based on the Debtors' financial circumstances, the Debtors' failure to satisfy the other stay factors independently requires denial of the motion.

## IV

## CONCLUSION

The Debtors have failed to make the minimum permissible showing required under the four-factor test for a stay pending appeal. They have not demonstrated a strong showing of likelihood of success on the merits or established that serious legal questions are raised by their appeal. The issues they raise—RESPA notice violations, assignment defects, and California foreclosure procedure—are matters of nonbankruptcy law that were not adequately developed below and do not demonstrate error in the Court's determination that MidFirst made the showing necessary to entitle it to relief from the automatic stay.

The Debtors have not shown that irreparable injury is the probable outcome absent a stay, particularly where the threatened harm flows from their own payment default and their delay in seeking stay relief for two months after filing their appeal. The balance of harms favors the creditor, who has received no payments for over two years and has been repeatedly delayed, and the Debtors have offered no adequate protection or security. The public interest does not favor granting a stay under these circumstances.

Accordingly, **IT IS HEREBY ORDERED** that the Emergency Motion for Stay Pending Appeal filed by Debtors Jesse Lee Ross and Cheryl Lynn Ross is **DENIED.**

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Date: August 4, 2026

Sheri Bluebond
United States Bankruptcy Judge