This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: October 21, 2025

Tyson A. Crist
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re:	:	
Lisa Denise Pergrem,	:	Case No. 25-31536
	:	Chapter 13
Debtor.	:	Judge Crist
	:	

ORDER GRANTING MOTION FOR RELIEF FROM STAY AND THE CO-DEBTOR STAY PURSUANT TO 11 U.S.C. §§ 362(d)(1), 362(d)(2), AND 1301(c)(3), AND *IN REM* RELIEF UNDER 11 U.S.C. § 362(d)(4) AS TO REAL PROPERTY LOCATED AT 30 CLEARBROOK DRIVE, FRANKLIN, OH 45005 (DOCS. 18 & 19)

This matter is before the Court on Creditor Wells Fargo Bank, National Association's ("Wells Fargo") *Motion as Trustee for Option One Mortgage Loan Trust 2005-5, Asset-Backed Certificates, Series 2005-5 for Relief from Stay In Rem Pursuant to 11 U.S.C. Section 362(d)(4)(B) for Real Property Located at 30 Clearbrook Drive, Franklin, OH 45005 and Co-Debtor Stay* (Doc. 18), filed on August 14, 2025 (the "Motion"), and the accompanying *Notice of Hearing* (Doc. 19).

Background

A. Debtor's Current *Pro Se* Chapter 13 Case

On August 1, 2025, Lisa Denise Pergrem ("Ms. Pergrem" and the "Debtor"), *pro se*, filed a skeletal Voluntary Petition (Doc. 1) initiating this chapter 13 case. Ms. Pergrem only filed Official Form 101, none of the other forms required by 11 U.S.C. § 521(a)(1) or as listed in the

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Order Regarding Deficient Filing by Individual Debtor and Setting Fourteen (14) Day Deadline for Compliance; and Notice of Imminent Dismissal of Case (Doc. 9), also entered on August 1, 2025. The Debtor had filed two prior chapter 13 cases in this Court within the preceding one-year period, both of which were dismissed for failure to file required information, as further discussed below (Case Nos. 24-32537 & 25-30552). *See* Statement of Related Cases Information Required by Local Rule 1015-2 (Doc. 4). In her current petition she indicated a need to pay the filing fee in installments. *See* Petition at 3, Part 2, ¶ 8. And she filed an *Application to Pay the Filing Fee in Installments* (Doc. 7), which the Court denied on August 13, 2025, because Ms. Pergrem had filed a previous case in which such an application had been granted, but in which she failed to pay one or more of the installment payments. *See Order Denying App. to Pay Filing Fee in Installments (Doc. No. 7)* (Doc. 17). To Debtor's credit, she paid the full filing fee of $313 by August 27, 2025, according to a docket entry of the same date.[1]

Wells Fargo acted quickly in response to this case, which is Ms. Pergrem's third *pro se* chapter 13 case since December 30, 2024. On August 7, 2025, counsel for Wells Fargo filed a *Notice of Appearance* (Doc. 15), and on August 14, 2025, Wells Fargo filed the Motion. The Debtor and her Co-Debtor, Franklin S. Pergrem ("Mr. Pergrem" and the "Co-Debtor"), were served copies of the Motion and Notice of Hearing by first class U.S. mail at the address for the real estate at issue, which is also listed as Debtor's residence in her Voluntary Petition (Doc. 1), in accordance with Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules") 4001(a)(1), 7004(b)(1) and (b)(9), and 9014(b)(1), and Local Bankruptcy Rules 4001-1, 9013-3, and 9013-1. The Notice of Hearing advised the Co-Debtor and Debtor that if they or their attorney did not want the Court to grant the relief sought in the Motion, if they wanted the Court to consider their views, then within twenty-one (21) days they or their attorney must file a written request for a hearing and a written response setting forth the specific grounds for objection with the Clerk of this Court. *See* Notice of Hearing (Doc. 19) at 1. Further, the Notice of Hearing advised that if the Co-Debtor and Debtor did not take these steps the Court "may decide that you do not oppose the relief sought in the [M]otion . . . and may enter an order granting that relief." *Id.* at 1-2.

[1] Debtor also filed two versions of a *Debtor's Motion for Order Extending Time to File Missing Documents*, the first dated August 1, 2025 (Doc. 20 at 1), requesting an extension of time until August 15, 2025 to file the missing documents required by § 521(a)(1), and the second dated August 15, 2025 (Doc. 20 at 2-4), requesting an extension of time until either September 14, 2025 or August 31, 2025. However, Debtor did not submit a proposed order and has not filed any of the documents.

Both the Debtor and Co-Debtor failed to file any response. Notably, the Debtor has also failed to respond to the two motions to dismiss filed by the Chapter 13 Trustee in this case, which are the exact same two motions to dismiss, alleging the same bases for dismissal, as filed in her past two cases, namely: (1) a *Motion to Dismiss For Failure to file a Plan and Notice of Hearing* (Doc. 24), pursuant to 11 U.S.C. § 1307(c), and (2) a *Motion to Dismiss for Cause and for Other Appropriate Relief and Notice of Hearing* (Doc. 25).[2] The latter motion to dismiss notes that the Debtor failed to attend the meeting of creditors scheduled for September 17, 2025,[3] as required by 11 U.S.C. § 343, and also did not commence payments within thirty (30) days after the petition date as required by 11 U.S.C. § 1326(a), and the motions seeks not only dismissal, but also a 180-day bar to the Debtor filing another bankruptcy petition, pursuant to 11 U.S.C. § 109(g)(1), "due to the filing of multiple bankruptcy cases." Doc. 25.

B. Debtor's Prior Two *Pro Se* Chapter 13 Cases

The Debtor's most recent prior case, No. 25-30552, was short-lived. The Debtor filed her *pro se* Voluntary Petition, under chapter 13, on March 28, 2025. Doc. 1. But similar to this case, the Chapter 13 Trustee filed two motions to dismiss, on April 28 and May 8, 2025, due to the Debtor's failure to file a plan (Doc. 22) and for cause, for failure to attend the meeting of creditors and to commence payments within thirty (30) days after the petition date (Doc. 24). The Court did not rule on either of those motions to dismiss because the case was automatically dismissed pursuant to 11 U.S.C. § 521(i)(1) for yet another deficiency, the failure to file schedules, a statement of financial affairs, and the Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period [Official Form B122C-1], by operation of law on May 14, 2025. *See Notice of Automatic Dismissal Without the Entry of a Discharge* (Doc. 25).

The other recent prior case fared no better. In Case No. 24-32537, the Debtor filed a *pro se* Voluntary Petition, also under chapter 13, on December 30, 2024. Doc. 1. Following the same pattern, the case was subject to two pending motions to dismiss from the Chapter 13 Trustee, again

[2] Given that the response periods on both motions to dismiss (Docs. 24 & 25) have expired without objection by the Debtor, the Court will proceed to enter an order dismissing this case with a 180-day bar to refiling following the entry of this Order.

[3] This appears to be a harmless typo, as the docket entry stating "Meeting of Creditors Not Held" was entered on September 16, 2025, and the *Notice of Chapter 13 Bankruptcy Case* (Doc. 13) gave notice of a meeting of creditors to be held on September 16, 2025, at 10:30 a.m. by Zoom.

for failing to file a plan, attend the meeting of creditors, and commence payments. Docs. 20 & 22. And those motions to dismiss were also not ruled upon because the case was automatically dismissed on February 18, 2025, again for failing to file schedules, the statement of financial affairs, and the Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period [Official Form B122C-1]. *See Notice of Automatic Dismissal Without the Entry of a Discharge* (Doc. 24).

Analysis

A. Relief from the Automatic Stay Under § 362(d)(1) and (d)(2)[4]

The Motion, unopposed by Debtor and Co-Debtor, establishes cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay, as Wells Fargo's interest in the real property is not only not being adequately protected, but Wells Fargo is being successively delayed through bad faith *pro se* filings from enforcing its rights. Relief from stay is also appropriate under § 362(d)(2) given that the Debtor bears the burden to establish any equity in the subject real property, the Motion alleges she has none, and Debtor has failed to respond to the Motion. 11 U.S.C. § 362(g). And as alleged in the Motion, and corroborated by the Chapter 13 Trustee's Motions to Dismiss, the Debtor has not complied with her duties in each of her three successive *pro se* chapter 13 cases such that there is no effective reorganization happening. Therefore, relief from the automatic stay is also warranted under § 362(d)(2). Moreover, because the Co-Debtor, Mr. Pergrem, did not respond, and in light of the irreparable harm to Wells Fargo caused by the lack of equity and adequate protection, and these successive chapter 13 cases, there is likewise cause to grant Wells Fargo relief from the co-debtor stay pursuant to 11 U.S.C. § 1301(c)(3).

Wells Fargo attached to its Motion the Relief from Stay / Adequate Protection Exhibit and Worksheet – Real Estate required by Local Bankruptcy Rule ("LBR") 4001-1(a)(2). It represents there is negative equity in the property based on a total indebtedness of $274,841.14, which is approximately $50,000 more than the Auditor's value, plus an arrearage of $35,477.02 on the mortgage, which has a monthly payment amount of $1,028.42. *See* Ex. and Worksheet (Doc. 18 at 8-10); Mot. at 2, ¶¶ 6-7. *See also* Claim 6-1 at 2, ¶ 7 (dated August 3, 2025) (listing the total amount of Wells Fargo's claim to be $274,659.39). The Motion likewise attaches the other

[4] All statutory sections referred to herein are sections of Title 11 of the United States Code (the "Bankruptcy Code").

documents required by LBR 4001-1(a)(2); namely, the Adjustable Rate Note dated August 31, 2025, made by Co-Debtor Franklin S. Pergrem and Debtor Lisa D. Pergrem, Allonge to Note, payable to the order of Wells Fargo Bank, N.A., as Trustee, Allonge to Note, payable to the order of Wells Fargo, National Association as Trustee for Option One Mortgage Loan Trust 2005-5, Asset-Backed Certificates, Series 2005-5, and Allonge to Note, payable to the order of Wells Fargo, National Association as Trustee for Option One Mortgage Loan Trust 2005-5, Asset-Backed Certificates, Series 2005-5 by Its Attorney-in-Fact PHH Mortgage Corporation (Exhibit A); Open-End Mortgage dated August 31, 2005, on the Debtor's residence at 30 Clearbrook Drive, Franklin, Ohio 45005, given by Franklin S. Pergrem and Lisa D. Pergrem, Husband and Wife, an Adjustable Rate Rider, and an Assignment of Mortgage, each of which bear Book and Page numbers, as well as a recording stamp of the Warren County, Ohio Recorder's Office, plus a notarized Loan Modification Agreement by Mr. and Ms. Pergrem dated November 3, 2022, a Survivorship Deed by which the real property was conveyed to Mr. and Ms. Pergrem, as Husband and Wife, which bears Book and Page numbers, as well as a recording stamp of the Warren County, Ohio Recorder's Office, and an online copy of the Warren County, Ohio Auditor's printout for the real property with a 2024 total "true value" of $224,470 (Exhibit B).

Apart from paying the filing fee in this case, the Debtor has made no meaningful effort to fulfill her duties and reorganize her financial affairs in any of three successive *pro se* chapter 13 cases. In addition, Debtor has made little in the way of mortgage loan payments to the mortgagee, Wells Fargo, since April 1, 2023. As set forth in the Motion, "Debtor has failed to make periodic payments to Movant since April 1, 2023, which unpaid payments are in the aggregate amount of $28,421.83 (minus $634.48 in suspense) through August 1, 2025." Mot. at 2, ¶ 9.a. Wells Fargo's Proof of Claim 6-1, filed in this case on October 3, 2025, by the same counsel who filed the Motion, is consistent. And it will come as no surprise that according to the Motion by Wells Fargo, as well as the Chapter 13 Trustee's motions to dismiss, that Debtor has made no payments to either during the pendency of the current chapter 13 case.

Based on the foregoing, it is hereby **ORDERED** that relief from the automatic stay and the co-debtor stay, under §§ 362(d)(1) and (d)(2), and 1301(c)(3), for Wells Fargo to enforce its *in rem* rights in and to the real property to proceed with its Foreclosure Action is appropriate and is hereby granted.

B. Two-Year *In Rem* Relief from the Automatic Stay Under § 362(d)(4)

Granting relief from the automatic stay is step one in ruling on Wells Fargo's Motion, but it is not the end. Wells Fargo's Motion also alleges and supports, with filings from this Court and in the foreclosure action pending before the Court of Common Pleas, Warren County, Ohio, Case No. 24CV097570, of which this Court can take judicial notice pursuant to Federal Rule of Evidence 201,[5] that each of Debtor's three *pro se* chapter 13 cases were filed on the proverbial "eve" of foreclosure – within days of a foreclosure sale, which has now been set three different times in the Foreclosure Action. *See* Ex. C – Notice of Sale (Dec. 16, 2024) (Doc. 18-1 at 38-40) (setting a Jan. 6, 2025 sale date); Ex. D – Notice of Sale (Mar. 21, 2025) (Doc. 18-1 at 42-43) (setting an Apr. 7, 2025 sale date); Ex. E – Notice of Sale (July 21, 2025) (Doc. 18-1 at 45-46) (setting an Aug. 11, 2025 sale date). In comparison, as laid out in the Motion, Debtor filed her *pro se* chapter 13 cases on: (1) December 30, 2024, seven (7) days prior to foreclosure sale; (2) March 28, 2025, seven (7) days prior to foreclosure sale; and (3) August 1, 2025, ten (10) days prior to foreclosure sale. Thus, as further alleged in the Motion, "[t]he Debtor has clearly demonstrated that these bankruptcy filings are part of [a] scheme to delay the Movant from proceeding with foreclosure." Mot. at 4, ¶ 9.

Bankruptcy Judge Christopher Klein recently examined the bases for granting two-year *in rem* relief from the automatic stay. *See In re Town & Country Event Center, LLC*, No. 25-24205-C-11, 2025 WL 2888008, at *3-4 (Bankr. E.D. Cal. Oct. 10, 2025). Therein, he analyzed that pursuant to the plain language of § 362(d)(4), "all that is required is proof either of a 'scheme to hinder' creditors or a 'scheme to delay' creditors." *Id.* at *3. "In other words, intent to defraud is not essential." *Id.* In addition, Judge Klein noted that a bankruptcy court has discretion whether to treat a motion as unopposed or "exercise[] its discretion to entertain an evidentiary hearing." *Id.* at *2 (further noting that a sham motion to sell the property had also been filed and opposed). Likewise, courts have found that a scheme to hinder or delay a creditor exists, and the movant has met its burden of proof under § 362(d)(4) warranting *in rem* relief in situations similar to this case, in which "[t]he Debtor has not opposed the Motion," the Debtor has not actively participated in

[5] *See, e.g.*, *In re Pellechia*, 617 B.R. 750, 752 (Bankr. D. Conn. 2020) (Tancredi, J.) ("In establishing the relevant background and facts, the Court has taken judicial notice of publicly filed court documents related to the present proceeding, in addition to matters of public record such as the docket and orders in the state court foreclosure proceeding and the dockets and orders in the Debtor's various other bankruptcy and civil proceedings in federal court.").

prosecuting a third bankruptcy, and the Debtor has "failed to appear at the section 341 meeting of creditors[.]" *In re Merlo*, 646 B.R. 389, 396 (Bankr. E.D.N.Y. 2022) (also noting that "[d]ue to the 2010 amendments to this subsection, secured creditors need not establish that the conduct evidences a scheme to defraud that creditor, but only that the scheme serves to either hinder, delay or defraud the creditor."); *see also* 3 Collier on Bankruptcy ¶ 362.LH[4][h] (Richard Levin & Henry J. Sommer eds., 16th ed.) (explaining that the Bankruptcy Technical Corrections Act of 2010, Pub. L. No. 111-327 (2010), amended subsection (d)(4) "to replace 'hinder, and' with 'hinder, or,' making the phrase 'delay, hinder, or defraud' in the subsection consistent with other uses of the phrase in the Bankruptcy Code and nonbankruptcy law." (citing Pub. L. No. 111-327 § 2(a)(12)(C) (2010))).

The unmistakable pattern of these three cases is that Debtor has engaged in a scheme to delay and hinder Wells Fargo from enforcing its rights under its mortgage, through "multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d)(4)(B). And, at the same time, she has failed to make any serious effort to reorganize her affairs through complying with her duties to file schedules and a statement of financial affairs and to propose a plan. In this situation in which the Motion is unopposed, the decision to hold or not hold a hearing is within the Court's discretion. *See In re Jackson*, No. 25-42744-PRH, 2025 WL 1701227, at *16 n.32 (Bankr. E.D. Mich. June 17, 2025) (Hage, J.) ("The Court agrees with those courts that have held that, based on the record before it of which judicial notice has been taken, an evidentiary hearing is not necessary for purposes of determining whether a 'scheme to delay, hinder, or defraud' has occurred. . . . In this case, the nine years of frivolous and vexatious litigation in various state and federal courts detailed above speaks for itself."); *see also In re Lee*, 467 B.R. 906, 919-23 (B.A.P. 6th Cir. 2012) (discussing the operation of § 362(d)(4), and collecting cases); *In re Town & Country Event Center, LLC*, 2025 WL 2888008, at *1-5 (concluding creditor entitled to relief under § 362(d)(4) based upon 4 related Chapter 11 cases within a year involving the same real property, and a fully matured loan). Moreover, "courts have held that a bankruptcy court can infer an intent to hinder, delay and defraud from the fact of serial filings alone." *In re Corriette*, No. 22-70202-AST, 2022 WL 1038165, at *4 (Bankr. E.D.N.Y. Apr. 5, 2022) (citing *In re Montalvo*, 416 B.R. 381, 386 (Bankr. E.D.N.Y. 2009); *In re Pellechia*, 617 B.R. 750, 759 (Bankr. D. Conn. 2020), *reconsideration denied*, No. 19-21972 (JJT), 2020 WL 6811970 (Bankr. D. Conn. July 28, 2020) (Bankruptcy Courts may "infer an intent to hinder, delay, and defraud creditors from the fact of

serial filings alone."); *see also In re Richmond*, 513 B.R. 34, 38 (Bankr. E.D.N.Y. 2014) ("The extent of the efforts by a debtor to prosecute his bankruptcy case and '[t]he timing and sequence of the filings' are important factors in determining whether a debtor has engaged in 'a scheme to delay, hinder, and defraud.' "); *see also In re Jackson*, No. 25-42744-PRH, 2025 WL 1701227, at *15 (collecting cases). Notably, however, the language of § 362(d)(4) is worded in the disjunctive, as noted by Judges Klein and Hage, such that it need only be a scheme by the debtor to "delay, hinder, ***or*** defraud creditors . . . ."[6] (Emphasis added).

In this case the record is clear enough already, is corroborated by the Chapter 13 Trustee's three (3) sets of unopposed motions to dismiss filed in each of Debtor's three *pro se* chapter 13 cases, and the Court is not inclined to further prolong matters by setting a hearing on the unopposed Motion, which Debtor might very well not attend given her failure to attend any of the meetings of creditors scheduled in her three *pro se* chapter 13 cases that have been pending this year. Debtor has made no serious effort to prosecute these Chapter 13 cases after filing her petitions, as evidenced by her failure to ever file any of the documents required by § 521(a)(1), and instead used these skeletal chapter 13 filings as a means to hinder and delay Wells Fargo from exercising its state law rights against the Debtor and Co-Debtor's residence.

Conclusion

Accordingly, in addition to lifting the automatic stay pursuant to § 362(d)(1) and (d)(2) for Wells Fargo, its successors and assigns to pursue their in rem rights, as stated above in conclusion to section B of the Analysis, the Court further hereby **ORDERS** that this Order is entered, and Wells Fargo, its successors and assigns are granted *in rem* relief, pursuant to § 362(d)(4)(B) as to Wells Fargo's claim secured by a mortgage interest in the Debtor's real property located at and commonly known as 30 Clearbrook Drive, Franklin, OH 45005 in Warren County, Ohio such that a certified copy of this Order shall be accepted for indexing and recording in compliance with state law in Warren County, Ohio, and if so recorded this Order shall be binding in any other bankruptcy case – a case under the Bankruptcy Code – purporting to affect such real property that is filed

[6] Presumably, as in this case, delaying and hindering a creditor will often go hand-in-hand, whereas defrauding a creditor may present a whole different set of facts. *See In re Jackson*, 2025 WL 1701227, at *15 (stating that "[t]o 'delay' or 'hinder' a creditor within the meaning of section 362(d)(4) is to unlawfully forestall a creditor's efforts to collect on a debt or recover its property." (citing *In re Duncan & Forbes Dev., Inc.*, 368 B.R. 27, 34 (Bankr. C.D. Cal. 2006)).

within two (2) years after the date of entry of this Order by this Court, except that a debtor in a subsequent bankruptcy case – a case under the Bankruptcy Code – may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing.

IT IS SO ORDERED.

Copies to:

All Creditors and Parties in Interest