



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, January 21, 2026
Department A - Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: **If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered.** The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. 25-14243-A-13 IN RE: PABLO CHAVEZ
SLG-1

MOTION TO EXTEND AUTOMATIC STAY
1-16-2026 [21]

PABLO CHAVEZ/MV
JOSHUA STERNBERG/ATTY. FOR DBT.
OST 1/21/26

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

On January 19, 2026, the court granted the debtor's ex parte motion for order shortening time to hear the debtor's motion to extend the automatic stay. Doc. #30. This motion was set for hearing on January 21, 2026 at 9:30 a.m. pursuant to Local Rule of Practice ("LBR") 9014-1(f) (3). Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and deny the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f) (2). The court will issue an order if a further hearing is necessary.

As a procedural matter, the motion and supporting papers do not comply with LBR 9014-1(c). "In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions." LBR 9014-1(c) (1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c) (4). See LBR 9004-2(b) (6). Here, the movant used Docket Control Number SLG-1, which was already used for another motion to extend time that the court denied. Order, Doc. #20.

As a further procedural matter, the exhibits filed in connection with this motion do not comply with LBR 9004-2(c)(1) and (d)(1), which require declarations and exhibits to be filed as separate documents. Here, the declaration of the debtor was filed as a single document that included the movant's exhibits. E.g., Doc. #24.

The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Pablo Gonzales Chavez ("Debtor") moves the court for an order extending the automatic stay pursuant to 11 U.S.C. § 362(c) (3) (B). Doc. #21.

Debtor had a chapter 13 case pending within the preceding one-year period that was dismissed, Case No. 25-11213 (Bankr. E.D. Cal.) ("Prior Case"). The Prior Case was filed on April 13, 2025 and dismissed on November 25, 2025. Decl. of

Pablo Gonzales Chavez, Doc. #24. Trustee filed a motion to dismiss the Prior Case on September 12, 2025 for Debtor's failure to (i) file and confirm a chapter 13 plan, (ii) provide various documents to the chapter 13 trustee ("Trustee"), (iii) provide tax returns for the years 2022, 2023, and 2024, and (iv) make plan payments. Case No. 25-11213, Doc. #31. A review of the court's docket in the Prior Case discloses a chapter 13 plan was never confirmed. At a continued hearing on Trustee's motion to dismiss, Debtor voluntarily dismissed the Prior Case. Case No. 25-11213, Doc. #67, 69.

Under 11 U.S.C. § 362(c)(3)(A), if a debtor had a bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the current case. Debtor filed this case on December 23, 2025. Petition, Doc. #1. The automatic stay will terminate in the present case on January 22, 2026.

Section 362(c)(3)(B) allows the court to extend the stay "to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed[.]" 11 U.S.C. § 362(c)(3)(B).

Section 362(c)(3)(C)(i) creates a presumption that the case was filed not in good faith if the debtor: (1) filed more than one prior case in the preceding year; (2) failed to file or amend the petition or other documents without substantial excuse, provide adequate protection as ordered by the court, or perform the terms of a confirmed plan; or (3) has not had a substantial change in his or her financial or personal affairs since the dismissal, or there is no other reason to believe that the current case will result in a discharge or fully performed plan. 11 U.S.C. § 362(c)(3)(C)(i).

The presumption of bad faith may be rebutted by clear and convincing evidence. 11 U.S.C. § 362(c)(3)(C). Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are 'highly probable.' Factual contentions are highly probable if the evidence offered in support of them instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence offered in opposition." Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288 n.11 (B.A.P. 9th Cir. 2016) (citations omitted) vacated and remanded on other grounds by Taggart v. Lorenzen, 139 S. Ct. 1795 (2019).

In support of this motion to extend the automatic stay, Debtor declares that the instant case was filed to save his home located at 10300 Sharktooth Peak Drive, Bakersfield, California 93311 (the "Property"), which is set for foreclosure on January 28, 2026. Chavez Decl., Doc. #24. Debtor asserts that losing his home would be devastating for his family and would prevent him from completing his chapter 13 plan. Id. Further, Debtor asserts that after the dismissal of the Prior Case, Debtor filed a claim against the foreclosing lender, Superior Loan Servicing ("Lender"), relating to defects and issues in the loan secured by Property. Id. The supporting pleadings include only the cover page of a state court complaint filed on December 1, 2025. Ex. A, Doc. #24. Debtor contends the filing of the state court lawsuit constitutes a material change in Debtor's circumstances from the Prior Case because, if the lawsuit is successful, the amount Debtor owes to Lender would be substantially reduced. Chavez Decl., Doc. #24.

In this case, the presumption of bad faith arises because there is no reason to believe that the current case will result in a discharge or fully performed

plan. Trustee moved to dismiss the Prior Case because, among other things, Debtor was delinquent in payments due under the proposed plan. Case No. 25-11213, Doc. #31. While Debtor voluntarily dismissed the Prior Case, Debtor was not able to make the monthly plan payment in the Prior Case. Chavez Decl., Doc. #24. Comparing Debtor's current proposed plan with the proposed plan filed in the Prior Case, it appears that Debtor's monthly plan payments will be \$6,130.77 more than in the Prior Case (\$10,566.04 in the current case and \$4,435.27 in the Prior Case). Doc. #3; Case No. 25-11213, Doc. #40. Further, it appears Debtor's net monthly income has decreased when comparing the net monthly income in the Prior Case with the net monthly income in the current case based on Debtor's filed schedules (\$16,603.71 in the current case and \$20,853.18 in the Prior Case). Doc. #1; Case No. 25-11213, Doc. #1, 51.

While both Schedules I and J filed in the current case and the Prior Case reflect a net monthly income that exceeds Debtor's proposed monthly plan payments, Debtor failed to make the plan payments in the Prior Case and has failed to explain the cause of this deficiency or how circumstances have changed in the current case other than asserting that the filing of the state court complaint will reduce the amount due to Lender. There are several issues with this contention. First, Debtor failed to provide a complete copy of the state court complaint, so the court does not know the grounds for Debtor's claims against Lender. Second, the state court complaint indicates that Debtor seeks injunctive relief, but Debtor has not explained to this court what, if any, requests Debtor has made to the state court to enjoin the pending foreclosure sale and, if any, the result of such requests. Third, Debtor will have to make monthly plan payments of \$10,566.04 under the proposed plan in the current case while his state court litigation is pending, and Debtor has not explained how Debtor will be able to pay the increased monthly plan payments due under the current plan when Debtor could not make the monthly plan payments due in the Prior Case. Plan, Doc. #3.

Accordingly, the court finds that Debtor has not met his burden of rebutting the presumption by clear and convincing evidence that the current case was not filed in good faith because the pleadings filed with the motion fail to provide any reason for this court to believe that the current case will result in a discharge or fully performed plan as required under 11 U.S.C. § 362(c) (3) (C).

While Debtor asserts that denial of this motion will permit Lender to foreclose on the Property, such may not be the case. This court follows In re Thu Thi Dao, 616 B.R. 103, 104 (Bankr. E.D. Cal. 2020) (Klein, J.), and holds that the plain language of section 362(c) (3) (A) terminates the automatic stay with respect to the debtor and property of the debtor but does not terminate the automatic stay with respect to the estate or property of the estate. Moreover, Debtor has sued Lender in state court, and the denial of this motion is without prejudice to Debtor seeking to enjoin a foreclosure sale by Lender in his state court litigation, assuming such action is appropriate.