



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Tuesday, April 28, 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, (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.

11:00 AM

1. [26-11333](#)-A-13 **IN RE: SAMINEH AMIRSHAHI**
[MB-2](#)

MOTION TO CONFIRM TERMINATION OR ABSENCE OF STAY
4-24-2026 [[20](#)]

MARK MALKASIAN/MV
HAGOP BEDOYAN/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

On April 23, 2026, the court granted an ex parte application for an order shortening time to hear the creditors' motion to confirm the termination of the automatic stay. Order, Doc. #19. This motion was set for hearing on April 28, 2026 at 11:00 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 grant the motion in part. The court confirms that the automatic stay has terminated as to the debtor and property of the debtor but not as to the estate or property of the estate. 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.

Jim Malkasian and Mark Malkasian (together, "Movants") move the court for an order confirming the termination of the automatic stay in this case pursuant to 11 U.S.C. § 362(c)(3)(A) and (j) with respect to real property referred to as 15618 Porterville Highway, McFarland, California 93250 ("Property") belonging to debtor Samineh Amirshahi ("Debtor"). Doc. #20.

Debtor had a chapter 13 case pending within the one-year period preceding the filing of the current bankruptcy case that was dismissed, Case No. 26-10618 (Bankr. E.D. Cal.) (the "Prior Case"). The Prior Case was filed on February 17, 2026 and dismissed on March 9, 2026. Decl. of Jim Malkasian, Doc. #23; Decl. of Mark Malkasian, Doc. #24; Case No. 26-10618, Doc. #1, 11. Under 11 U.S.C. § 362(c)(3)(A) and (B), 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 unless within that 30-day period the debtor files a motion to extend the automatic stay and that motion is heard during that period. Debtor filed this case on March 27, 2026. Petition, Doc. #1. Because no motion to extend the automatic stay was filed and heard by the court within 30 days of the filing of this bankruptcy case, the automatic stay terminated in the present case as to Debtor on April 26, 2026.

A motion to confirm termination or absence of the automatic stay may be filed to verify the debtor does not have the protection of the automatic stay pursuant to 11 U.S.C. § 362(c)(3). 11 U.S.C. § 362(j) allows the court to issue an order under subsection (c) confirming that the automatic stay has been terminated on request of a party in interest. 11 U.S.C. § 362(j).

The court finds that Debtor had a bankruptcy case, the Prior Case, that was pending and dismissed within the one-year period preceding the filing of this case. The court also finds that Debtor did not file a motion to extend the automatic stay in this bankruptcy case within 30 days after filing this case. Therefore, Debtor does not have the protection of the automatic stay pursuant to 11 U.S.C. § 362(c) (3).

Movants assert this court should follow Reswick v. Reswick (In re Reswick), 446 B.R. 362 (B.A.P. 9th Cir. 2011), which holds that 11 U.S.C. § 362(c) (3) (A) "terminates the automatic stay in its entirety on the 30th day after the petition date" if not extended as permitted under 11 U.S.C. § 362(c) (3) (B). Reswick, 446 B.R. at 373. This is the minority view in interpreting 11 U.S.C. § 362(c) (3) (A). In re Thu Thi Dao, 616 B.R. 103, 104 (Bankr. E.D. Cal. 2020) (Klein, J.) (noting over 50 cases, led by the Fifth Circuit, find that the stay does not terminate as to property of the estate and over 20 cases, led by the First Circuit and including Reswick, find that the stay ceases to protect property of the estate).

Decisions of the Ninth Circuit Bankruptcy Appellate Panel are not binding on bankruptcy courts in the Ninth Circuit. State Compensation Ins. Fund v. Zamora (In re Silverman), 616 F.3d 1001, 1005 (9th Cir. 2010 (citing Bank of Maui v. Estate Analysis, Inc., 904 F.2d 470, 472 (9th Cir. 1990)). Thus, the holding of Reswick is not binding on this court. While there is a circuit split on this issue, the Ninth Circuit has not weighed in. Compare Rose v. Select Portfolio Serv., 945 F.3d 226, 230 (5th Cir. 2019), cert. denied, 2020 U.S. LEXIS 3390 (June 29, 2020) (holding § 362(c) (3) (A) "terminates the stay only with respect to the debtor") with Smith v. State of Maine Bureau of Revenue Services (In re Smith), 910 F.3d 576, 590 (1st Cir. 2018) (holding § 362(c) (3) (A) "terminates the entire automatic stay . . . after thirty days for second time filers.").

The court has analyzed 11 U.S.C. § 362(c) as well as the relevant case law and holds that termination of the automatic stay under § 362(c) (3) does not extend to the estate or property of the estate. The court finds the majority position in interpreting 11 U.S.C. § 362(c) (3) based on the express language of § 362(c) (3) and statutory construction to be more persuasive.

The court agrees with the majority of cases that "§ 362(c) (3) is not ambiguous and that extending the stay termination to the estate and property of the estate is a bridge too far that offends 'plain language' that threatens to read § 362(c) (1) out of the statute." Dao, 616 B.R. at 106. 11 U.S.C. § 362(c) (3) (A) clearly states that "the stay under subsection(a) 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[.]" 11 U.S.C. § 362(c) (3) (A). The court holds that the plain language of § 362(c) (3) (A) does not terminate the automatic stay with respect to the estate or property of the estate.

Moreover, Reswick does not address how its holding, that § 362(c) (3) (A) terminates the automatic stay in its entirety rather than only with respect to the debtor, is reconciled with § 362(c) (1), a provision that specifically addresses when the automatic stay terminates with respect to property of the estate. 11 U.S.C. § 362(c) (1) and (c) (2) create two different schemes for termination of the automatic stay imposed under § 362(a). Under § 362(c) (1), the automatic stay against property of the estate "continues until such property is no longer property of the estate[.]" 11 U.S.C. § 362(c) (1). 11 U.S.C. § 362(c) (2), on the other hand, provides that the automatic stay with respect to any other act continues until (a) the case is closed, (b) the case is dismissed, or (c) in a chapter 7 case involving an individual or in case under a chapter 9, 11, 12, or 13, when the discharge is granted or denied. 11 U.S.C. § 362(c) (2). Thus, there are two separate schemes for determining

when the automatic stay terminates, depending upon whether the stay is against property of the estate or not, and this existed at the time that Congress enacted 11 U.S.C. § 362(c)(3). There is nothing in the language of § 362(c)(3)(A) that indicates Congress intended to trump § 362(c)(1) in enacting § 362(c)(3)(A) so that 11 U.S.C. § 362(c)(3)(A) terminates the automatic stay in its entirety rather than only with respect to the debtor. This court disagrees with the minority position interpreting § 362(c)(3)(A) that "finds ambiguity [in § 362(c)(3)(A)] and reasons that inferring such an extension is consistent with the Congressional purpose of thwarting bad-faith manipulations of bankruptcy." Dao, 616 B.R. at 106.

Accordingly, pending opposition being raised at the hearing, the court will enter an order under 11 U.S.C. § 362(j) confirming termination of the automatic stay as to Debtor and property of Debtor only. The court will not confirm termination of the automatic stay as to the estate or property of the estate.