



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B - 510 19th Street
Bakersfield, California**

Hearing Date: Wednesday, May 7, 2025

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable René Lastreto II shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys 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/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

Post-Publication Changes: 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 any possible updates.

9:00 AM

1. [24-10403](#)-B-13 **IN RE: VICKI/ANGELA VALENTYN**
[WEE-2](#)

CONTINUED MOTION TO CONFIRM PLAN
3-9-2025 [[68](#)]

ANGELA VALENTYN/MV
WILLIAM EDWARDS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Denied as moot.

ORDER: The court will prepare the order.

On April 25, 2025, the Debtors filed their *Third Amended Plan*. Doc. #87. Accordingly, this *Motion to Confirm Debtor's Second Amended Plan* is hereby DENIED AS MOOT.

The court notes that the Third Amended Plan is set for a confirmation hearing on June 5, 2025. Doc. #84. Counsel for the Debtors is advised that the *Motion to Confirm* the Third Amended plan reuses the Docket Control Number ("DCN") from the Debtors' *Motion to Confirm* the Second Amended plan and may be subject to denial without prejudice due to that procedural defect

2. [19-14713](#)-B-13 **IN RE: DARWIN MAMARADLO**
[LGT-1](#)

CONTINUED OBJECTION TO DISCHARGE BY LILIAN G. TSANG
2-24-2025 [[91](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.
DISMISSED 4/17/25

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Overruled as moot.

No order is required.

On April 17, 2025, a *Notice of Entry of Order of Dismissal* was entered in this case. Doc. #107. Accordingly, this Objection is OVERRULED as moot.

3. [25-10720](#)-B-13 **IN RE: DARON NUNN**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
4-17-2025 [\[12\]](#)

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to June 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Daron Nunn ("Debtor") on March 11, 2025, on the following basis:

1. The Plan provides for a monthly payment of \$3,550.00 which is insufficient to complete plan payments within five years. The monthly payments must be increased to at least \$3,563.00 per month.
2. The Debtor's Statement of Financial Affairs must be amended to account for Debtor's Pension/Annuity income.
3. Trustee requests Debtors February and March 2025 bank statement, as well as any expenses claimed on his 1099 income.

Doc. #12.

This objection will be CONTINUED to **June 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

4. [25-10460](#)-B-13 **IN RE: CECELIA MCNABB**
[LGT-1](#)

MOTION TO DISMISS CASE
4-2-2025 [\[20\]](#)

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

No order is required.

On May 6, 2025, the Debtor in this case filed a *Notice of Voluntary Dismissal of Chapter 13 Case*. Doc. #24. Accordingly, this *Motion to Dismiss* will be DENIED as moot.

5. [25-10461](#)-B-13 **IN RE: JASON CAULEY**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
3-21-2025 [\[17\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained or overruled.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Jason Cauley ("Debtor") on February 18, 2025, on the following basis:

1. The Plan proposes to pay 0% to general unsecured creditors, and Debtor does not have any scheduled unsecured priority debt. However, Debtor has equity in several assets (as listed in the Objection) which, if liquidated, could provide a dividend to unsecured creditors. To satisfy the liquidation test, the monthly plan payment must be increased to at least \$2,389.44.

Doc. #17. On April 15, 2025, the Debtor filed a response conceding that there was non-exempt equity in the assets, though Debtor asserts that the liquidation value is less than Trustee claims. Doc. #20. Debtor also notes that the Franchise

Tax Board has filed a claim which must be taken into account and that Amended Schedules I & J are forthcoming. *Id.*

Unless withdrawn by the Trustee, this matter will proceed as scheduled to determine whether the Trustee and Debtor have agreed on a revised monthly plan payment that passes the liquidation test. The Objection will be either SUSTAINED or OVERRULED as determined at the hearing.

6. [24-12864](#)-B-13 **IN RE: ALLAN/MADELINE WINANS**
[RSW-1](#)

CONTINUED MOTION TO CONFIRM PLAN
12-12-2024 [\[26\]](#)

MADELINE WINANS/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING WITHDRAWN

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: To be determined at the hearing.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

This matter was originally heard on February 5, 2025. Doc. #26. It was continued to March 5, 2025, then to April 2, 2025, and finally to May 7, 2025. Docs. #42, #48, #53.

Allan and Madeline Winans ("Debtor") move for an order confirming the *First Modified Chapter 13 Plan* dated December 12, 2024. Doc. #30. No plan has been confirmed thus far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The modified plan proposes to move CarMax Business Services LLC ("CarMax") from Class 2 to Class 3. However, the plan does not address the \$336.29 payment which Trustee distributed to CarMax under the original plan.
2. The modified plan proposes to treat Ally Financial Inc. ("Ally") as a Class 2 creditor and pay the value of the auto securing the claim, but no motion for valuation has been filed, let alone ruled upon.
3. The modified plan calls for a monthly plan payment of \$1,230.00 for 36 months. However, the case was filed on October 1, 2024, and December 2024 was month 2 of the plan. Accordingly, under the modified plan as written, Debtor is delinquent by \$16.00 for the December payment, with additional \$1,230.00 payments accruing.

Doc. #40. On February 13, 2025, the Debtors responded to the Objection, with Debtors' counsel stating candidly that the plan is not ready for confirmation because Debtor has gained new employment,

and Co-Debtor has learned that she will soon begin receiving monthly payments from a trust left by a relative. Doc. #45. Debtors' counsel averred that the Debtors will soon be filing amended documents and that the plan payment may need to be increased. *Id.* Debtors requested that this matter be continued, and the Trustee concurred. *Id.*; Doc. #46. The court duly reset the matter for April 2, 2025. Doc. #48.

The court heard from the parties at the April 2, 2025, hearing, and was advised of certain changes in the Debtors' financial status by Debtors' counsel, Robert Williams ("Williams"). Doc. #54. Williams represented to the court that, because of these changes, the plan payment would not need to be increased after all, that the small deficiency in plan payments due would be corrected, and that Debtors wish to proceed under the March 2025 plan. *Id.* Williams further advised that the issue with CarMax would be resolved by a stipulation which CarMax had agreed to but not yet signed as of the hearing date. *Id.*

The Trustee, in turn, advised the court that the delinquency had been resolved, but that either a Stipulation or a valuation order as to Ally's claim, as well as an Amended Schedule I and J, were required. *Id.* The court continued the motion to May 7, 2025. *Id.*

On April 18, 2025, the Debtors filed Amended Schedules I & J and an Amended Form 122C. Docs. ##57-58. The Trustee subsequently withdrew the Objection, presumably having concluded that the amended filings resolved the problems with the plan. Doc. #59.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Other than the Trustee's Objection, which has been withdrawn, no party in interest has responded, and the nonresponses of all interested parties are entered.

The 36-month plan proposes the following terms:

1. Plan payments will be \$1,230.00 per month.
2. Outstanding Attorney's fees in the amount of \$7,000.00 to be paid through the plan.

3. Secured creditors to be sorted into appropriate Classes and paid as follows:
 - a. Ally Financial, Inc. (Class 2B, 2018 Chevrolet Colorado, Not PMSI). \$22,956.00 at 10.00% to be paid at \$922.35 per month.
 - b. Carfax Auto Finance (Class 3, 2016 Nissan Altima to be surrendered).
4. A dividend of 5% to unsecured creditors.

Doc. #30. The court notes that there has been neither a Stipulation nor a Motion to Value Collateral as to the Ally Financial claim filed with the court. While the Trustee has withdrawn her Objection, the court's view is that the plan is not confirmable until the proper value of Ally's collateral is established, either by Stipulation or by an Order on Valuation after a suitable motion is filed.

This matter will proceed as scheduled so that the Debtors can advise the court as to the status of the Stipulation and/or Motion for Valuation, unless one of those have been properly filed in advance of the hearing date.

7. [24-13665](#)-B-13 **IN RE: JUSTIN/SHARLENE TUEY**
[DMG-1](#)

MOTION TO CONFIRM PLAN
3-26-2025 [\[46\]](#)

SHARLENE TUEY/MV
D. GARDNER/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to June 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Justin and Sharlene Tuey ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated March 26, 2025. Doc. #46. No plan has been confirmed so far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The plan does not provide for all the Debtors' projected disposable income to be applied to unsecured creditors. Debtors must file a Form 122C-2.
2. The Disclosure of Compensation of Attorney for Debtor form filed on December 20, 2024, is incorrect and is not the standard form for this district.
3. Trustee requests proof of income received since Mr. Tuey began his new job.

Doc. #60. Debtors filed a Disclosure of Compensation of Attorney and a Form 122-C on April 30, 2025. Docs. #69-70. On May 2, 2025, the Trustee filed a Supplemental Objection stating that Objections #2 and #3 are resolved, but additional documents are required to resolve Objection #1.

This motion to confirm plan will be CONTINUED to **June 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtors shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtors elect to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtors do not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

8. [25-11190](#)-B-13 **IN RE: ARTHUR VELASCO**
[TCS-1](#)

MOTION TO EXTEND AUTOMATIC STAY
4-22-2025 [\[8\]](#)

ARTHUR VELASCO/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Arthur Velasco ("Debtor") requests an order extending the automatic stay under 11 U.S.C. § 362(c)(3). Doc. #8.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant 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.

Under 11 U.S.C. § 362(c) (3) (A), if the debtor has had a bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay under subsection (a) shall terminate with respect to the debtor on the 30th day after the latter case is filed.

This Debtor's cases within the last year are as follows:

Docket	Filed	Dismissed	Reason for dismissal
23-12647	11/29/23	2/20/25	Failure to make plan payments
25-11190	4/11/25	Pending	n/a

The automatic stay in the current case will expire on May 11, 2025.

11 U.S.C. § 362(c) (3) (B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor demonstrates that the filing of the latter case is in good faith as to the creditors to be stayed. Such request must be made within 30 days of the petition date.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c) (3) (C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* 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. 1785 (2019)).

In this case, the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith as to all creditors because Debtor has had a previous case pending with the preceding one-year period and Debtor failed to perform the terms of a confirmed plan. § 362(c) (3) (C) (i) (II) (cc).

Debtor declares that the previous case was dismissed because Debtor was unable to work because of illness, specifically open-heart surgery followed by pneumonia which caused him to regularly miss work over an 8-month period. Doc. #10. Debtor further declares that he is now healthy and on new medication, and that he has not missed a day of work in two months (as of the filing of this motion). *Id.* Debtor has experienced a significant change in circumstances and now makes more than he did when he filed the previous bankruptcy. *Id.*

A comparison of Debtor's confirmed plan from his prior case and the plan which has been filed in the current case reflects the following:

	11/29/23 Plan & Schedules	4/11/25 Plan & Schedules
Monthly Plan Payment	\$2,217.00	\$2,527.00
Outstanding Attorney Fees	\$10,200.00	\$11,793.00
Dividend to General Unsecureds	\$10%	3%
Monthly Net Income (Sched. J)	\$2,217.10	\$4,339.00

Compare Case No. 23-12657, Doc. #1 with 25-11190, Doc. #1.

The court notes that Debtor's proposed distribution to unsecured creditors has been substantially reduced even as his monthly net income has increased, which is something that the Trustee may choose to examine. For purposes of this motion, however, it appears that Debtor's financial condition has materially changed since the last case was filed.

Based on the moving papers and the record, the presumption appears to have been rebutted by clear and convincing evidence because Debtor's financial condition and circumstances have materially changed. Debtor's petition appears to have been filed in good faith and the proposed plan does appear to be feasible.

This matter will be called and proceed as scheduled. In the absence of opposition at the hearing, this motion may be GRANTED. 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).

9. [24-10693](#)-B-13 **IN RE: ANTHONY MARQUEZ**
[TCS-4](#)

MOTION TO MODIFY PLAN
3-28-2025 [\[58\]](#)

ANTHONY MARQUEZ/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to June 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Anthony Marquez ("Debtor") moves for an order confirming the *Third Modified Chapter 13 Plan* dated March 28, 2025. Doc. #58. The current plan dated March 20, 2024, was confirmed on July 5, 2024. Docs. #3,

#26. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. According to the Nonstandard Provisions, "Debtor's creditor Transport Funding to receive a total of \$7,008.40 for secured payments under the plan prior to the reclassification. The remainder after the sale of the collateral to be paid as general unsecured claim." The Trustee can pay the creditor as an unsecured claim but cannot pay an unspecified amount. The plan does not provide an amount to be paid after said sale nor has the creditor amended their claim.
2. The most recent Motion to Modify prior to this one was supported by a Debtor Declaration, but no such declaration is included with this one. In particular, the declaration accompanying the previous motion stated that Debtor's 2017 Freightliner Cascadia had been repossessed, but it is unknown if the reason for surrender remains the same.

Doc. #65.

This motion to confirm plan will be CONTINUED to June 5, 2025, at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

10. [25-10596](#)-B-13 **IN RE: ANTHONY BROWN**
[SC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-11-2025 [\[41\]](#)

GOOD NEIGHBOR HOMES, LLC/MV
SAM CHANDRA/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

Good Neighbor Homes, LLC ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 3008 Dalea Street, Bakersfield, California 93308 ("Property"). Doc. #51. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 4001(a)(3). *Id.* The debtor is Anthony Brown ("Debtor" or "Brown"). According to the moving papers, the Property is owned by one Nancy A. Thompson ("Thompson"). *Id.* Thompson and Brown, along with others (collectively "the Occupants") reside at the Property but have no ownership in it. *Id.*

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant 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.

The motion is supported by (1) the Declaration of Sam Chandra, counsel for Movant; (2) a Memorandum of Points and Authorities; and (3) various Exhibits. Docs. ##44-46. Because written opposition was not required, the court is limited to the facts as presented by Movant in the Declaration and Exhibits. The Debtor will have opportunity to challenge any factual assertions at the hearing. With that in mind, the facts of this matter appear to be as follows, drawn from the moving papers except where noted:

On October 30, 2024, Movant obtained title to the Property by purchasing it at a foreclosure sale, and said title was duly perfected. No landlord-tenant relationship has ever existed between Movant and Brown, Thompson or any of the other Occupants, and their title to the Property, assuming it ever existed, was extinguished by the foreclosure sale.

On November 26, 2024, Movant filed an unlawful detainer action against Thompson and the Occupants in the Kern County Superior Court for "restitution and possession" of the Property, damage, costs, and any other just and proper relief. On February 14, 2025, the state court entered a *Notice of Ruling on Discovery Motions* which, inter alia, deemed admitted as against Brown several relevant facts, including: (1) that Movant is entitled to possession of the Property, (2) that Brown (and others) remained in possession of the Property after the foreclosure sale, (3) that there are no facts which contradict the Movant's case for unlawful detainer, (4) that Brown has no affirmative defenses against the case for unlawful detainer, and (5) that Brown is guilty of unlawful detainer. Doc. #46 (Exhibits 5 and 6).

On February 28, 2025, Debtor filed this Chapter 13 case pro se. Doc. #1. The filing was skeletal, with missing documents filed on March 28, 2025, though many of them appear incomplete. Docs. ## 35-37. In particular, the court notes that Debtor's Certificate of Credit

Counseling indicates that he did not undergo credit counseling as required by 11 U.S.C. § 109(h) and § 111 until a month after the filing of the case. Doc. #35. Furthermore, Debtor's Schedules D, E, and F identify no creditors other than Shellpoint Mortgage Servicing, which purportedly is the mortgage holder on the Property. Doc. #36. Debtor's Schedule A/B indicates no assets owned by the Debtor except the Property (which Brown values at \$390,802.00 and for which he claims to be the sole owner), a Toyota Corolla valued at \$1,200.00, household goods valued at \$2,500.00, various electronics valued at \$1,800.00, clothes valued at \$1,000.00, and a Wells Fargo bank account holding \$250.00. *Id.* There is an inconsistency in that Schedule A/B, line 1.1 says that Debtor's interest in the Property is \$390,802.00, but line 1a of the Official Form 106Sum says that the value of his real estate is only \$68,204.00, as does line 55 (Part 1: Total real estate, line 2). *Id.*

On March 5, 2025, the state court matter was called for Movant's Motion for Summary Judgment, at which time it was announced that a notice of stay had been filed as to Brown due to the automatic stay triggered by the filing of this case. Nevertheless, the state court proceeded to enter judgment against all defendants except for Brown for holdover damages and possession. The state court entered a judgment against Brown for possession. Counsel for Movant, who was not the counsel of record for Movant at the Summary Judgment hearing, became concerned that the partial judgment against Brown violated the automatic stay and now seeks retroactive relief in this motion.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has neither any ownership interest in the Property nor any landlord/tenant arrangement with Movant such that Debtor has the legal right to occupy the Property.

The court also finds that, because Debtor has no ownership in the Property, he cannot, by definition, have any equity in the Property.

Accordingly, the motion will be GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2). The automatic stay will be lifted to allow Movant, together with any additional successors or assigns, to proceed under applicable non-bankruptcy law to enforce its remedies to obtain possession of the Property.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because Movant continues to suffer ongoing holdover damages which accrue daily while Debtor retains possession of the Property.

Though "cause" exists to lift the stay, Movant here seeks to retroactively annul the automatic stay effective as of the petition date.

The Ninth Circuit Court of Appeals has warned that retroactive relief should only be "applied in extreme circumstances." *In re Aheong*, 276 B.R. 233, 250 (B.A.P. 9th Cir. 2002) (citations omitted). When deciding a motion to annul the automatic stay, the court may consider the "*Fjeldsted*" factors. See *In re Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 24-25 (B.A.P. 9th Cir. 2003). One factor alone may be dispositive. *Id.* The court will consider each *Fjeldsted* factor in turn.

1. Number of filings. This is Brown's first bankruptcy case.
2. In a repeat filing case, do the circumstances indicate an intention to delay and hinder creditors. This factor does not apply.
3. A weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser. This factor does not apply.
4. The Debtor's overall good faith under the totality of circumstances. Debtor filed this case days before summary judgment could be entered against him and the other Occupants. The petition was skeletal at the time of filing and remains deficient in several ways. The failure to receive credit counseling prior to filing alone may lead to dismissal. This factor favors retroactive relief.
5. Whether creditors knew of the stay but nonetheless took action, thus compounding the problem. It appears Movant did not know of the stay until after the hearing when the state court found against Brown for possession, the only action which may be violative of the stay. Movant's counsel avers that he was not at that hearing, where Movant was represented by a different appearance attorney who failed to request a continuance pending stay relief. Movant took no further actions beyond that.
6. Whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules. As noted, this was a skeletal petition filed on the eve of summary judgment in the state court case. The petition remains deficient, and the case is set for dismissal. This factor favors retroactive relief.
7. The relative ease of restoring parties to the status quo ante. If retractive relief is not granted, Movant's counsel will need to return to the state court and persuade that the judgment be vacated as to Brown. However, there is no harm to Debtor if relief is made retroactive, as the foreclosure sale was completed prepetition, as was the request for admission that Movant was entitled to possession deemed admitted. This factor favors retroactive relief.

8. The costs of annulment to debtors and creditors. Movant avers that there is no cost to Debtor if the stay is annulled, but Movant will bear the expense of further law and motion seeking to vacate the order entered against Brown while the stay was in effect. This factor favors retroactive relief.
9. How quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative contract. Movant ceased all activity vis a vis the unlawful detainer action against Brown upon learning of the petition on March 5, 2025. Movant filed his first *Motion for Stay Relief* on March 14, 2025, but it was denied on procedural grounds. Movant filed this motion two days after the first motion was denied. This factor favors retroactive relief.
10. Whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief. Movant ceased all activity vis a vis the unlawful detainer action against Brown upon learning of the petition on March 5, 2025. Movant filed his first *Motion for Stay Relief* on March 14, 2025, but it was denied on procedural grounds. Movant filed this motion two days after the first motion was denied. This factor favors retroactive relief.
11. Whether annulment of the stay will cause irreparable injury to the debtor. The foreclosure sale took place prepetition, and the state court deemed it admitted that Movant was entitled to possession prepetition. There is no injury to Debtor. This factor favors retroactive relief.
12. Whether stay relief will promote judicial economy or other efficiencies. Denying the motion will require Movant to return to state court to seek vacatur of the state court's order, followed by the filing of a second motion for summary judgment. All of this will require an additional expenditure of court time, attorneys' fees, and costs. This factor favors retroactive relief.

The court finds that the *Fjeldsted* factors support annulling the automatic stay because Movant did not timely receive notice of the bankruptcy and because Movant's counsel did not learn of the state court's ruling against Brown which was the only violation of the stay before the court. Upon receiving notice, Movant promptly filed this motion.

CONCLUSION

For the reasons stated above, the court finds that "cause" exists to grant relief from the automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2). The motion for stay relief is GRANTED.

Further, the motion will be retroactively GRANTED as to both Debtor, the Property, and the Movant because the *Fjeldsted* factors support annulment. The automatic stay will be annulled as to Movant with

respect to both Debtor and the Property effective as of the petition date.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

10:00 AM

1. [25-11007](#)-B-7 **IN RE: OSCAR PRECIADO**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT
INFORMATION IN PACER
4-17-2025 [\[13\]](#)

JOSEPH PEARL/ATTY. FOR DBT.

NO RULING.

2. [25-11043](#)-B-7 **IN RE: JIMMIE PODLEWSKI**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-14-2025 [\[13\]](#)

VINCENT GORSKI/ATTY. FOR DBT.
\$338.00 FILING FEE PAID 4/15/25

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$338.00 filing fee was paid on April 15, 2025. Accordingly, this order to show cause will be VACATED.

3. [25-10857](#)-B-7 **IN RE: ALFARO RODRIGUEZ WENSESLAO**

ORDER TO SHOW CAUSE FOR FAILURE TO UPDATE CONTACT
INFORMATION IN PACER
4-8-2025 [\[13\]](#)

JOHN ASUNCION/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the matter has been corrected by counsel. Accordingly, this order to show cause will be VACATED. No appearance is necessary.

4. [25-10499](#)-B-7 **IN RE: JEFFREY REICH**
[SR-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS AND/OR
MOTION TO FILE EXEMPTIONS
4-7-2025 [\[38\]](#)

PAMELA REICH/MV
PETER BUNTING/ATTY. FOR DBT.
SHANE REICH/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled as moot.

ORDER: The court will prepare the order.

Pamela Reich ("Movant"), estranged spouse of the Debtor Jeffrey Reich ("Debtor"), objects to Debtor's claimed exemptions under Cal. Civ. Proc. § 703 for certain community property assets described in the moving papers. Doc. #38 *et seq.* Movant requests that Debtor be required instead to use the exemptions contained in Cal. Civ. Proc. § 704. *Id.*,

On May 1, 2025, Debtor filed Amended Schedules, including an Amended Schedule C in which Debtor makes use of the § 704 exemptions. Doc. #54. While the latest Schedule raises even more questions than its predecessors and seems likely to provoke further objection going forward, this Objection, based as it was on a demand that Debtor use the § 704 exemptions, has been resolved and will be OVERRULED as moot.

11:30 AM

1. [25-10290](#)-B-7 **IN RE: PATRICK FITZGERALD**

REAFFIRMATION AGREEMENT WITH DESERT VALLEYS FEDERAL CREDIT UNION
4-9-2025 [\[13\]](#)

STEVEN ALPERT/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Patrick John Fitzgerald ("Debtor") and Desert Valley Federal Credit Union for a 2015 Kia Soul ("Vehicle") was filed on April 9, 2025. Doc. #13.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

Here, the Vehicle is valued at \$5,275.00. The amount being reaffirmed by Debtor is \$5,640.49 with an 11.99% interest rate. Debtor has negative equity of \$365.49 with approximately 25 months (two years) remaining on the loan and a negative \$29.00 remaining in the budget every month according to the Debtor's schedules. Though there is no presumption of undue hardship because the lender is a Credit Union, reaffirming this debt is not in the Debtor's best interest.