

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

June 24, 2025 at 1:30 p.m.

1. [25-20872](#)-E-13  
[KMM-1](#)

ALLISON HINGST ELO  
Pro Se

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-13-25 [\[44\]](#)

GLOBAL LENDING SERVICES LLC

VS.

DEBTOR DISMISSED: 06/08/25

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (pro se) on May 13, 2025. By the court's calculation, 42 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

**The Motion for Relief from the Automatic Stay is denied without prejudice, the automatic stay having been terminated by dismissal of this bankruptcy case.**

Global Lending Services LLC ("Movant") seeks relief from the automatic stay with respect to Allison Marie Hingst Elo's ("Debtor") vehicle identified as a 2019 Chevrolet Equinox, vin ending in 5995 ("Vehicle"). Movant has provided the Declaration of Jabari H to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property.

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57. The instant case was dismissed on June 8, 2025, for Debtor failing to make plan payments. Dckt.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate**;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) *the time the case is dismissed*; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

*(3) reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.*

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of June 8, 2025, the automatic stay as it applies to the Vehicle, and as it applies to Debtor, was terminated by operation of law. At that time, the Vehicle ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

**Multiple Cases Pending and Dismissed  
Within Two Years of the Filing of this Case**

Debtor commenced this Chapter 13 Case on February 27, 2025. Petition; Dckt. 1. Debtor has had pending and dismissed the following prior Chapter 13 Cases within one year prior to February 27, 2025:

Case Number	Date Dismissed
24-25795	January 14, 2025
24-22985	November 18, 2024

Congress provides in 11 U.S.C. § 362(c)(4)(A) and (B) that:

(4)  
(A)

(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, 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;

Here, the Debtor has had two prior cases that were pending and dismissed within one year of the February 27, 2025, triggering the provisions of 11 U.S.C. § 362(c)(4)(A) that prevents the automatic stay pursuant to 11 U.S.C. § 362(a) from going into effect in this Bankruptcy Case. This Bankruptcy Case having been

filed on February 27, 2025, the 30 day period for the Debtor to request the stay to take in effect in this Bankruptcy Case has long since expired.

On June 17, 2025, the Debtor, in *pro se*, filed a Motion to Reopen Case. Dckt. 62. Form EDC 003-020. The reasons stated in the Motion are “To file documents and payment and hire an attorney.” Though the Bankruptcy Case has been dismissed, the file has not yet been closed. Like a number of attorneys, Debtor is equating the dismissal of her case with the closing of her case (a closing being in the nature of the Clerk of the Court “closing the file,” with no new pleadings, such as a motion to vacate the order dismissing the Case, being filed).

Even if Debtor were to get the order dismissing this Case dismissed, there is no automatic stay and the time-period for Debtor seeking to have the court impose the automatic stay has expired.

Debtor is correct, one of her prime tasks is to obtain counsel. While the automatic stay would not automatically go into effect in a case filed in the next six months, Debtor could promptly request it in such subsequent case.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Vehicle on June 8, 2025.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Global Lending Services LLC (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied without prejudice as moot, this bankruptcy case having been dismissed on June 8, 2025 (prior to the hearing on this Motion). The court, by this Order, confirms that the automatic stay provisions of 11 U.S.C. § 362(a) were terminated as to Allison Marie Hingst Elo (“Debtor”) pursuant to 11 U.S.C. § 362(c)(2)(B) and the vehicle identified as a 2019 Chevrolet Equinox, vin ending in 5995, pursuant to 11 U.S.C. § 362(c)(1) and § 349(b)(3) as of the June 8, 2025 dismissal of this bankruptcy case.

# FINAL RULINGS

2. [24-22520-E-13](#)  
[KMM-1](#)

SUZANNE PECK  
Mary Anderson

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-13-25 [\[33\]](#)

TOYOTA MOTOR CREDIT  
CORPORATION VS.

**Final Ruling: No appearance at the June 24, 2025 Hearing is required.**

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor on May 13, 2025. By the court's calculation, 42 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

**The Motion for Relief from the Automatic Stay is denied without prejudice.**

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2023 Toyota 4Runner, VIN ending in 1634 ("Vehicle"). The moving party has provided the Declaration of Debra Knight to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Suzanne Marie Peck ("Debtor"). Decl., Docket 36.

Movant argues Debtor has not made three post-petition payments for a total post-petition delinquency of \$2,301.35. Decl. 2:2:26-3:3. Movant also moves for relief based on lack of insurance on the Vehicle.

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Non-Opposition on May 23, 2025. Docket 39.

## DEBTOR'S OPPOSITION

Debtor filed an Opposition and supporting evidence on June 9, 2025. Dockets 40-43. Debtor admits there has been a delinquency, but Debtor testifies and provides evidence the delinquency has been cured. Decl. 2:1-9. Debtor also provides authenticated evidence showing that the Vehicle is insured. Ex. B, Docket 42.

## DISCUSSION

### J.D. Power Valuation Report Provided

Movant has also provided a copy of the J.D. Power Valuation Report for the Vehicle. Ex. D, Docket 37. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be \$44,642.80 (Declaration 4:15, Docket 36), while the value of the Vehicle is determined to be \$51,475.00, as stated on the J.D. Power Valuation Report.

### 11 U.S.C. § 362(d)(1): Relief for Cause

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

However, in this contested matter, cause is not present where Debtor has cured the delinquency and satisfied concerns over insurance.

Creditor filed a Notice of Withdrawal of its Motion on June 12, 2025. Docket 44. The Motion is denied without prejudice.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Toyota Motor Credit Corporation (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** the Motion is denied without prejudice.