

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

August 12, 2025 at 1:30 p.m.

1. [25-90146-E-7](#)

MIGUEL DUARTE AND  
ANGELINA GONZALEZ

CONTINUED PRO SE REAFFIRMATION  
AGREEMENT WITH ONEMAIN  
FINANCIAL GROUP, LLC  
5-20-25 [[14](#)]

Notes:

Continued from 7/9/25. The Debtor requesting a continuance to allow the Debtor to contact the Creditor and negotiate commercially reasonable terms.

**The Reaffirmation Agreement is XXXXXXX.**

**AUGUST 12, 2025 CONTINUED HEARING**

A review of the Docket on August 11, 2025, showed that nothing new has been filed with the court.

At the hearing, XXXXXXX

The court having reviewed the reaffirmation agreement, the reaffirmation agreement not having been certified by an attorney for Debtor, evidence provided, the value of the collateral, the interest rate, the amount of the obligation, the income and expenses of Debtor, the presumption of 11 U.S.C. § 524(m) arising and not having been rebutted, and finding that the proposed reaffirmation is not in the best interests of Debtor and does not create an undue hardship for Debtor, **the reaffirmation agreement is not [dis]approved pursuant to 11 U.S.C. §524(m).**

**JULY 9, 2025 HEARING**

An agreement to reaffirm a debt owed to Onemain Financial Group, LLC, which is secured by a 2010 Chrysler 300 having a value of \$3,415, was filed by Miguel Duarte and Angelina Gonzalez ("Debtor"). A hearing on this reaffirmation was conducted pursuant to order of the court.

No additional evidence was presented by Debtor in support of the reaffirmation. The interest rate of 33.10% under the terms of the reaffirmation agreement has not been modified from the original contract rate of 35.96%. The amount of the debt to be reaffirmed is (\$5,935.31) which has not been reduced from the pre-petition claim.

Debtor having income of \$6,286 and expenses of (\$6,312), the presumption of undue burden pursuant to 11 U.S.C. § 524(m) arises in connection with this reaffirmation agreement. The proposed monthly payment is \$245.73 for 40 months. Based on the income and expense information there is not a demonstrated ability of Debtor to pay this obligation to be reaffirmed.

The effective interest rate for paying \$5,935.31 for the vehicle worth (at retail) \$3,415 is 79.5% per annum.

At the hearing, the court addressed these issues with the Debtors and they requested that the hearing be continued to allow the Debtors to contact the Creditor and negotiate commercially reasonable terms.

The hearing on the Reaffirmation Agreement is continued to 1:30 p.m. on August 12, 2025.

PENNYMAC LOAN SERVICES, LLC  
VS.

**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—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and other parties in interest on July 2, 2025. By the court’s calculation, 41 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 XXXXXXX.**

PennyMac Loan Services, LLC (“Movant”) seeks relief from the automatic stay with respect to Manuel Saucedo Gonzalez and Regina Rodriguez Saucedo’s (“Debtor”) real property commonly known as 251 Cloverleaf Circle, Suisun City, California 94585 (“Property”). Movant has provided the Declaration of Michael McCullough to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 30. Movant requests relief pursuant to 11 U.S.C. § 362(d)(1) and (4).

Movant argues Debtor has not made two post-petition payments, with a total of \$4,970.96 in post-petition payments past due. Declaration ¶ 17, Docket 30.

Movant also argues that Debtor has filed eight bankruptcy petitions over the last seven years that have frustrated Movant from exercising its right of foreclosure, so Movant seeks relief pursuant to 11 U.S.C. § 362(d)(4).

## DEBTOR’S OPPOSITION

Debtor filed an Opposition on July 29, 2025. Docket 42. Debtor argues that Debtor is not a serial filer within the meaning of 11 U.S.C. § 362(d)(4). Opp’n 3:16-18. Debtor asserts that they are now current under the terms of the Plan. Debtor argues Movant should have presented their opposition at the Motion

to Extend the Automatic Stay, but Movant was silent. *Id.* at 3:22-25. Debtor argues no extraordinary relief is justified in this case.

## **CHAPTER 13 TRUSTEE’S NON-OPPOSITION**

The Chapter 13 Trustee, David Cusick (“Trustee”), filed a Non-Opposition on July 29, 2025. Docket 44. Trustee notes Debtor is delinquent \$6,814.05 in plan payments. *Id.* at ¶ 2.

## **MOVANT’S REPLY**

Movant filed a Reply on August 5, 2025. Docket 47. Movant argues Debtor is delinquent in this case and is continuing the trend of filing futile cases to frustrate Movant’s recovery efforts.

## **DISCUSSION**

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 \$499,353.71 (Declaration ¶ 16, Docket 30), while the value of the Property is determined to be \$540,000.00, as stated in Schedules A/B and D filed by Debtor. Schedule A/B at 13, Docket 1.

### **11 U.S.C. § 362(d)(1): Grant 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).

Creditor moves for relief for cause, specifically that Debtor is delinquent post-petition payments. Debtor argues that they are current, but Trustee corroborates a delinquency.

With respect to Debtor having cured the default as of the July 15, 2025 hearing and the Trustee acknowledging such as stated in the Opposition (Opp., p.2:14-18; Dckt. 42), the Civil Minutes state:

At the hearing, the Trustee reports that Debtor is still delinquent in the Plan payments. \$3,888.70 delinquent at the time of the hearing. Debtor’s counsel reports that the payment is “on the way”

The Trustee requested that the hearing be continued, with counsel for Debtor requested that the hearing be continued to 2:00 p.m. on August 12, 2025.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on August 12, 2025.

Civ. Minutes, p. 2-3; Dckt. 36.

Presumably such as happened, though it has not been confirmed by the Chapter 13 Trustee.

At the hearing, **XXXXXXX**

~~The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments that have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432.~~

~~—————The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.~~

#### **11 U.S.C. § 362(d)(4) Prospective Relief from Future Stays**

11 U.S.C. § 362(d)(4) allows the court to grant relief from the stay when the court finds that the petition was filed as a part of a scheme to delay, hinder, or defraud creditors that involved either (i) transfer of all or part ownership or interest in the property without consent of the secured creditors or court approval or (ii) multiple bankruptcy cases affecting particular property. 3 COLLIER ON BANKRUPTCY ¶ 362.07 (Alan n. Resnick & Henry H. Sommer eds. 16th ed.).

Certain patterns and conduct that have been characterized as bad faith include recent transfers of assets, a debtor's inability to reorganize, and unnecessary delays by serial filings. *Id.* The following cases have been filed prior to the current petition that have affected the Property:

Case	Date Filed	Date Dismissed	Date Filed	Date Dismissed	Case
<b>18-20217, CH 13 Both Debtors Represented</b>	<b>1/16/2018</b>				
Default Plan Pmts....(\$7,491.62)  Debtor Paid Into Plan.....\$10,978  Civil Minutes; 18-20217, Dckt. 39		<b>12/06/2018</b>			
			<b>01/15/2019</b>		
				<b>09/27/2019</b>	<b>19-20238, CH 13 Both Debtors Represented</b>

				(\$14,085.10) Default Plan Pmts. 19-20238; Civ. Minutes, Dckt. 73.  \$5,567 Paid into Plan. <i>Id.</i> ; Trustee Final Report, Dckt. 77.	
<b>21-24161, CH 13 Both Debtors Represented</b>	<b>12/14/2021</b>				
Default Plan Pmts....(\$5,275.84) 21-24161; Civ. Minutes, Dckt. 37.  Debtor Paid Into Plan.....\$0.00 <i>Id.</i> , Trustee's Final Report, Dckt. 43.		<b>03/17/2022</b>			
			<b>06/15/2022</b>		
				<b>07/05/2022</b>	<b>22-21490, CH 13 Both Debtors <i>Pro Se</i></b>
				Dismissed due to failure to file documents. 22-21490; Order, Dckt. 13.  \$0.00 Paid into Plan. <i>Id.</i> ; Trustee Final Report, Dckt. 15.	
<b>22-22110, CH 13 Both Debtors Represented</b>	<b>08/23/2022</b>				
Default Plan Pmts.....(\$14,950) 22-22110; Civ. Minutes, Dckt. 131.  Debtor Paid Into Plan.....\$2,300.00 <i>Id.</i> ; Trustee Final Report, Dckt. 135.		<b>04/20/2023</b>			
			<b>05/05/2023</b>		<b>23-21480, CH 13 Both Debtors Represented</b>
				<b>10/19/2023</b>	
				(\$11,300.00) Default Plan Pmts. 23-21480; Civ. Minutes, Dckt. 37.  \$0.00 Paid into Plan. <i>Id.</i> ; Trustee Final Report, Dckt. 41.	

<b>24-20464, CH 7 Both Debtors Represented</b>	02/06/2024				
	Discharge Entered 05/29/2024				
			<b>10/16/2024</b>		
				<b>01/27/2025</b>	<b>24-24648, CH 13 Debtor Regina Only Represented</b>
				(\$4,950.05) Default Plan Pmts. 24-24648; Civ. Minutes, Dckt. 32.  \$0.00 Paid into Plan. <i>Id.</i> ; Trustee Final Report, Dckt. 38.	
<b>Current Chapter 13 Case 25-21985</b>					
	04/25/2025				
	Amended Plan Filed.....07/27/2025				
<b>Case</b>	<b>Date Filed</b>	<b>Date Dismissed</b>	<b>Date Filed</b>	<b>Date Dismissed</b>	<b>Case</b>

Relief pursuant to 11 U.S.C. § 362(d)(4) may be granted if the court finds that two elements have been met. The filing of the present case must be part of a scheme, and it must contain improper transfers or multiple cases affecting the same property. With respect to the elements, the court concludes that the filing of the current Chapter 13 case in the Eastern District of California was part of a scheme by Debtor to hinder and delay Movant from conducting a nonjudicial foreclosure sale by filing multiple bankruptcy cases. The trend has been clear over the years: Debtor faces foreclosure for failing to timely pay their obligation, and Debtor files a bankruptcy petition to disrupt the process. There have been seven cases prior to the present petition with six of them resulting in dismissal for failing to make payments. Now, in the eighth case, Debtor is still failing to make plan payments. Debtor argues there are no extraordinary circumstances justifying the extraordinary relief; however, Debtor does nothing to explain how this extreme history of filings is not a scheme to hinder or delay Movant.

The fact that a debtor commences a bankruptcy case to stop a foreclosure sale is neither shocking nor *per se* bad faith. The automatic stay was created to stabilize the financial crisis and allow all parties, debtor and creditors, to take stock of the situation.

In the Motion for Relief from the Automatic Stay, Movant states:

6. On or about October 16, 2019, Debtors tendered their last payment towards the balance of the Loan, and no payments have been tendered since.

Motion, ¶ 6; Dckt. 28. In reading the Declaration filed in support of the Motion to see the testimony relating to this last payment, the court noticed something very curious about the Motion and Declaration. The paragraphs in the Declaration match up word for word for the allegations stated in the Motion. The following chart links the Motion paragraph to the identical Declaration paragraph:

Motion Paragraph Number	Declaration Paragraph Number with Identical Text
Motion ¶ 1	Declaration ¶ 4
Motion ¶ 2	Declaration ¶ 5
Motion ¶ 3	Declaration ¶ 6 (with minor edit)
Motion ¶ 4	Declaration ¶ 7
Motion ¶ 5	Declaration ¶ 8
Motion ¶ 6	Declaration ¶ 9
Motion ¶ 7	Declaration ¶ 10 (Testimony about prior Debtor filing and Debtor being represented by counsel)
Motion ¶ 8	Declaration ¶ 11 (Testimony about prior Debtor filing)
Motion ¶ 9	Declaration ¶ 12 (Testimony about prior Debtor filing and Debtor being represented by counsel)
Motion ¶ 10	Declaration ¶ 13 (Testimony about prior Debtor filing and Debtor being represented by counsel)
Motion ¶ 11	Declaration ¶ 14 (Testimony about prior Debtor filing and Debtor being represented by counsel)
Motion ¶ 12	Declaration ¶ 15 (Testimony about prior Debtor filing)
Motion ¶ 13	No Corresponding Declaration Paragraph
Motion ¶ 14	Declaration ¶ 16
Motion ¶ 15	Declaration ¶ 17



Motion ¶ 16	Declaration ¶ 18 (but not saying that the Exhibit is incorporated into the Declaration by the reference)
Motion ¶ 17	Declaration ¶ 19
Motion ¶ 18	Declaration ¶ 20
Motion ¶	Declaration ¶
Motion ¶ ¶ 1 -3 on p. 5.	The Declaration does not restate the prayer for relief.

The court also notes that the name of the Declarant, who presumably the attorney preparing the Declaration for and who the attorney is satisfied to provide the testimony under penalty of perjury (*See*, Fed. R. Bankr. P. 9011) is not typed in. Also, the declarant's position with Movant is also not typed in. Rather, the name is handwritten in (indicating that the attorney did not know who would be signing the Declaration) and the position of the declaration is merely stated to be "Authorized Representative," providing the court with the declarant's legal determination of that point of law.

The testimony also states that the "Authorized Representative" has:

[p]ersonal knowledge of Movant's procedures for creating these types of records. The records are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of Movant's regularly conducted business activities; and (c) it is the regular practice of Movant to make such records.

Dec., ¶ 3; Dckt. 30. While the "Authorized Representative" provides the court with the Representatives factual finding that he has knowledge, there is no information provided to the court that any such personal knowledge of how the records are created and maintained.

While Movant may feel it has been "suckered" through multiple bankruptcy filings and delayed from being able to foreclosure, such may well have arisen due to Movant's litigation strategy and how it chooses to enforce its rights.

It would appear that if the Debtor's pattern were to continue and this case shortly gets dismissed, Movant is protected by 11 U.S.C. § 362(c)(4) through January 26, 2026. (Movant can look to its counsel for legal opinion on the application of § 362(c)(4) to its rights.)

Conversely, when looking at the Debtor and the past five years of failed Chapter 13 Plans, Debtor offers little testimony and factual information providing the court and creditors some financial comfort. The only Declaration filed in response to the Trustee's Objection to Confirmation is that filed on July 27, 2025. In that Declaration, the two debtors tell the court that they signed their Chapter 13 Plan and it was a clerical error that an unsigned version was filed. Dckt. 40.

In looking at Schedule I, the two debtors have \$2,755.00 a month in Social Security Income and nothing else that they generate. Dckt. 1 at 25-26. They do list on Schedule I that an unnamed daughter provides them \$6,000.00 a month in “assistance.” *Id.*, p. 26. The court cannot find on the Docket a Declaration by the unnamed daughter in response to the Objection to Confirmation or the Motion for Relief From the Stay.

The court has found a Declaration from the daughter, Gricelda Ramirez (whose name is typed on the Declaration), in which she states that: (1) she is able to assist her parents, (2) Declarant suffered from a serious illness in 2022, (3) Declarant receives Social Security in an unstated amount, (4) Declarant works for Solano County In Home Support Services for a long term patient, but does not state the income relating to this employment, and (5) has a private care giver position through Banker’s Life, but does not state the income from that employment. She does testify that she has \$6,000.00 a month in after tax money to fund Debtor’s Chapter 13 Case. Dec. Dckt. 11.

The \$6,000.00 after tax monthly assistant to Debtor totals \$72,000.00 a year. From what is stated, Debtor’s daughter has sufficient monies after that to pay all of the income taxes and then the expenses for: (1) herself; (2) her daughter (Debtor’s granddaughter), who is stated to be in school working on a degree, and (3) her granddaughter (Debtor’s great-granddaughter). These numbers do not appear feasible.

At the end of the day, pursuant to 11 U.S.C. § 362(d)(4) is neither necessary or proper. Creditor has presented the court with questionable testimony. 11 U.S.C. § 362(c)(4) provides some statutory relief if Debtor’s financial plans are a “house of cards” and will fall shortly. To the extent that the Plan is performed for a while, Movant can pocket the post-petition payments.

On Schedule J Debtor lists a family unit of five persons, the two Debtors, a daughter, a granddaughter, and a great-granddaughter. *Id.* at 27-28. The expenses listed on Schedule J, such as for food, clothing, and the like are clearly a stretch for two adults. While listing the daughter, granddaughter, and great-granddaughter as dependents on Schedule J, it appears questionable that they are “dependents.”

The Motion for relief pursuant to 11 U.S.C. § 362(d)(4) is denied without prejudice, so that Movant could seek such relief at a future date if there are defaults and the Bankruptcy Case is facing possible dismissal.

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 PennyMac Loan Services, LLC (“Movant”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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~~IT IS ORDERED that the Motion is granted, and the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 251 Cloverleaf Circle,~~

~~Suisun City, California 94585 (“Property”) to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.~~

**IT IS FURTHER ORDERED** that the Motion is denied with respect to the relief requested pursuant to 11 U.S.C. § 362(d)(4) , without prejudice, so that could seek such relief at a future date if there are defaults and the Bankruptcy Case is facing possible dismissal.

No other or additional relief is granted.

3. <a href="#">24-24297</a> -E-13 <a href="#">RAS-1</a>	<b>LATASHA RICHARDSON</b> <b>Peter Macaluso</b>	<b>CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY 4-21-25 [<a href="#">101</a>]</b>
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**U.S. BANK TRUST COMPANY,  
NATIONAL ASSOCIATION VS.**

**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—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 13 Trustee, and Office of the United States Trustee on April 21, 2025. By the court’s calculation, 29 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.

<b>The Motion for Relief from the Automatic Stay is <span style="color: red;">XXXXXXX</span>.</b>
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**August 12, 2025 Hearing**

The court continued the hearing on this Motion to allow Creditor to have the Loan Modification Application processed, and for Debtor to become current in plan payments. On August 5, 2025, Debtor filed a Status Report. Docket 119. Debtor states:

1. The Property is insured, and Debtor is current in plan payments. *Id.* at 1:22-27.
2. Debtor requested documentation that the loan modification was still pending and was told they can mail a document of the status. Debtor has not yet received any other information on the loan modification. *Id.* at 2:4-6.

At the hearing, **XXXXXXX**

### **REVIEW OF MOTION**

U.S. Bank Trust Company, National Association, as Trustee, as successor-in-interest to U.S. Bank National Association, as trustee, on behalf of the holders of CSAB Mortgage-Backed Pass-Through Certificates, Series 2007-1 (“Movant”) seeks relief from the automatic stay with respect to Latasha Denell Richardson’s (“Debtor”) real property commonly known as 9980 Wyland Drive, Elk Grove, California 95624 (“Property”). Movant has provided the Declaration of Rosella Chavez to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 104.

Movant further seeks relief from the co-debtor stay of 11 U.S.C. § 1301(c) as to the co-buyer, Ralph Lee Shelton.

Movant argues Debtor has not made three post-petition payments in the amount of \$3,858.95 each. Declaration ¶ 7, Docket 104.

The Chapter 13 Trustee, David Cusick (“Trustee”), filed a Response on May 6, 2025. Docket 107. Trustee states that Debtor is slightly delinquent in plan payments in the amount of \$1,350.00. *Id.* at 1:26. Trustee does not oppose the Motion.

### **DEBTOR’S OPPOSITION**

Debtor filed an Opposition on May 13, 2025. Docket 110. Debtor states there is no cause for relief because she is not delinquent in plan payments. Debtor offers no evidence in support. The Opposition stated is that:

#### **B. DISPUTED FACTS**

No Cause Exists for Relief Sought, as the Debtor is current with Plan payments.

...

However, the debtor being current with what has come due thru the Trustee, are not (3) months in arrears, and, as such *In re Ellis* is not applicable, as "cause" does not exist at this time.

Opposition, p. 1:25 ½ -26 ½, p.2:5-8; Dckt. 110.

## DISCUSSION

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 \$1,057,767.63 (Declaration ¶ 8, Docket 104), while the value of the Property is determined to be \$1,002,000.00, as stated in Schedules A/B and D filed by Debtor. Schedule A/B at 3, Docket 12.

### 11 U.S.C. § 362(d)(1): Grant 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).

While Debtor states she is current under the terms of the confirmed Plan, Debtor offers no evidence in support. Movant has offered evidence to show that Debtor has defaulted in payments. Moreover, the Non-Standard Provisions of Debtor’s confirmed Plan allow Movant to move for relief from the stay when Debtor is either in default in plan payments or in default under any agreed upon loan modification. Plan, Docket 13.

At the hearing the Debtor’s counsel says that the Debtor is current under the Plan through April 2025. Counsel for the Trustee reported that the Debtor is current and the Trustee has been disbursing the adequate protection payments.

### Co-Debtor Stay

Additionally, Movant has provided sufficient grounds to grant relief from the co-debtor stay under 11 U.S.C. § 1301(a). Movant has established, pursuant to 11 U.S.C. § 1301(c), that it would be irreparably harmed if relief from the co-debtor stay were not granted because Co-Debtor can enjoy the Property while Movant’s interest is not being adequately protected. Mot. 6:6-11.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

**Federal Rule of Bankruptcy Procedure 4001(a)(3)**  
**Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, as Debtor would not be incentivized to insure or preserve the Property if this Motion is granted, that the court grant relief from the Rule as adopted by the United States Supreme Court. Mot. 6:13-18.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

**May 20, 2025 Hearing**

At the hearing, counsel for the Trustee reported that the Debtor is current on the Plan payments and the adequate protection payments are being made to Creditor. Debtor has not yet set the initial loan modification request to Creditor, but will do so.

The parties requested that the court continue the hearing a month to allow Debtor time to diligent move forward with requesting a loan modification.

The hearing on the Motion for Relief from the Automatic Stay is continued to 1:30 p.m. on July 1, 2025.

**July 1, 2025 Hearing**

The court continued the hearing on this Motion because counsel for the Trustee reported that the Debtor was current on the Plan payments and the adequate protection payments are being made to Creditor. Debtor had not yet sent the initial loan modification request to Creditor, but stated at the prior hearing she will do so.

The parties requested that the court continue the hearing a month to allow Debtor time to diligently move forward with requesting a loan modification. A review of the Docket on June 26, 2025 reveals nothing new has been filed with the court.

At the hearing, counsel for the Debtor reported that the insurance is in place and current on plan payments.

As of this time, the creditor stated that the June payment was underpaid, that is occurring because it is an adequate protection payment pending the loan modification. Creditor could not provide the court with a report as to the status of the Loan Modification Application it is processing.

The Parties agreed to a further continuance to allow Creditor to have the Loan Modification Application processed.

The Hearing on the Motion is continued to 1:30 p.m. on August 12, 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 U.S. Bank Trust Company, National Association, as Trustee, as successor-in-interest to U.S. Bank National Association, as trustee, on behalf of the holders of CSAB Mortgage-Backed Pass-Through Certificates, Series 2007-1 (“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 for Relief from the Automatic Stay is  
**XXXXXXX.**

# FINAL RULINGS

4. [24-22531](#)-E-11      R & A ENTERPRISES, LLC      CONTINUED STATUS CONFERENCE RE:  
[CAE-1](#)      6-10-24 [\[1\]](#)  
VOLUNTARY PETITION

**Final Ruling: No appearance at the August 12, 2025 Status Conference is required.**

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Debtor's Atty: Stephen M. Reynolds

Notes:

Continued from 6/4/25. Counsel for the Debtor in Possession projected that the Plan will be filed later in June 2025.

Operating Reports filed: 7/14/25

First Amended Plan of Reorganization for Small Business Debtor Under Chapter 11, Subchapter V filed 7/14/25 [Dckt 119]; set for hearing 8/26/25 at 10:00 a.m.

**The Status Conference is continued to 10:00 a.m. on August 26, 2025 (Specially Set Day and Time),** to be conducted in conjunction with the hearing on confirmation of the Subchapter V Plan.

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

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

The Chapter 11 Subchapter V Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **10:00 a.m. on August 26, 2025 (Specially Set Day and Time)**, to be conducted in conjunction with the hearing on confirmation of the Subchapter V Plan.