



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

September 22, 2026 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (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 medical 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.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

September 22, 2026 at 1:30 p.m.

1. [25-22929](#)-C-13 MANUEL HERNANDEZ CHAVEZ MOTION TO DISMISS CASE
[RDZ](#)-1 Peter Macaluso 8-14-26 [[36](#)]

Final Ruling: No appearance at the September 22, 2026 hearing is required.

This motion was incorrectly set by the creditor for 1:30 pm. David Cusick is the Chapter 13 Trustee; accordingly, this matter needs to be properly set for 11:00 a.m. The parties have also agreed to a 30 day continuance. This matter will be continued to October 20, 2026 at 11:00 a.m.

The Motion has been set on Local Rule 9014-1(f)(1) notice which requires 28 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 39.

The Motion to Dismiss is continued to October 20, 2026 at 11:00 a.m.
--

The California Department of Tax and Fee Administration ("Creditor") filed this motion to dismiss case because debtor has not filed prepetition and postpetition tax returns.

The Chapter 13 Trustee filed a response representing that Creditor filed a proof of claim in the amount of \$30,532.35 of priority tax liabilities, which the debtor's confirmed plan provides for. The Trustee does not oppose the motion because the nonfiling of tax returns may not be in compliance with the Code.

The debtor filed opposition asserting he is working with a financial services company to complete all tax returns and would like to continue the matter for 30 days.

Creditor filed a response representing it reluctantly agrees to a 30 day continuance.

Therefore, the matter will be continued to October 20, 2026, at 11:00 a.m.

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

September 22, 2026 at 1:30 p.m.

Page 1 of 7

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

The Motion to Dismiss the Chapter 13 case filed by the California Department of Tax and Fee Administration 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 to Dismiss is continued to October 20, 2026, at 11:00 a.m. at Sacramento Courtroom 35, Department C.

2. [22-23132](#)-C-13 ROBERT/RINDA THOKE
[LGT](#)-1 Mikalah Liviakis

MOTION UNDER RULE 3002-1(G) (4)
TO DETERMINE FINAL CURE AND
PAYMENT OF THE MORTGAGE CLAIM.
RE: CITIBANK. (CLAIM NO. 7)
8-14-26 [[51](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 55.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion for Determination of Final Cure and Payment is granted.

Chapter 13 Trustee, Lilian Tsang, seeks and order confirming that the debtor has cured the mortgage default and made all post-petition mortgage payments required under the plan, pursuant to Fed. R. Bankr. P. 3002.1. The Trustee represents she has paid \$38,199.39 on the claim.

Pursuant to Federal Rule of Bankruptcy Procedure 3002.1(g), on motion of the debtor or trustee, after notice and hearing, the court shall determine whether a debtor has cured the default and paid all required post-petition amounts.

Therefore, the court finds that the Debtors made all mortgage payments to Deutsche Bank National Trust Company as required by the Chapter 13 Plan.

The court shall issue a minute 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 Determination of Final Cure of Payment pursuant to Federal Rule of Bankruptcy Procedure 3002.1(g) filed by Lilian Tsang, Chapter 13 Trustee, 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 granted.

3. [22-21394](#)-C-13 KATHY JONES
Peter Macaluso
DEBTOR DISMISSED: 08/05/26

MOTION TO SUBSTITUTE ATTORNEY
8-21-26 [[114](#)]

Final Ruling: No appearance at the September 22, 2026 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 33.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Substitute is granted.

Kathy Jones filed this Motion seeking authority to substitute her attorney, Peter Macaluso, with herself acting in pro se. Debtor asserts there has been an irreconcilable breakdown in communication and trust with her attorney.

DISCUSSION

Under California Professional Conduct Rule 1.16(a)(4), an attorney must withdraw from representation if the client discharges the lawyer. Local Rule 2017-1(h) requires that all substitutions of attorney be approved by the Court.

Based on the declaration of the debtor, she desires to discharge Mr. Macaluso as her lawyer.

Therefore, the Motion is granted.

The court shall issue a minute 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 Substitution of Attorney filed by Debtor 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 granted, and Peter Macaluso is no longer counsel of record for the debtor.

4. [22-21394](#)-C-13 KATHY JONES
[KMJ](#)-1 Peter Macaluso

MOTION TO VACATE DISMISSAL OF
CASE AND/OR MOTION TO REINSTATE
CHAPTER 13 CASE
8-21-26 [[116](#)]

DEBTOR DISMISSED: 08/05/26

Tentative Ruling:

The Motion has not been set according to Local Rule 9014-1(f) procedure. The Proof of Service shows that 32 days' notice was provided. Dkt. 117.

The Motion to Vacate is denied.

Debtor Kathy M. Jones filed this Motion seeking to vacate this court's Order (Dkt. 11) dismissing the case on the basis that mail delivery issues contributed to her not knowing of the plan payment default and hearings on dismissal.

The court issued its Order dismissing the case after debtor became \$19,131.00 delinquent in plan payments. Debtor asserts she was making the plan payments but could not afford to make the step up payments that were required by the confirmed plan. Debtor asserts she would like to vacate the dismissal and propose a modified plan that is based upon her actual budget.

TRUSTEE'S RESPONSE

The Chapter 13 Trustee filed a response (Dkt. 120) opposing the request to reinstate representing that debtor is \$31,335.96 delinquent in plan payments through August 2026.

Trustee represents the case was already dismissed and reinstated once before. Trustee contends debtor has not provided any evidence she can bring the plan payments current, which she admits to in her declaration.

Additionally, the trustee represents debtor's plan is a 0% dividend to unsecured creditors and the plan payments are necessary to pay the ongoing class 1 mortgage claim and mortgage arrears, class 2 auto claim, and priority claims.

APPLICABLE LAW

Federal Rule of Civil Procedure Rule 60(b), as made applicable by Federal Rule of Bankruptcy Procedure 9024, governs the reconsideration of a judgment or order. Grounds for relief from a final judgment, order, or other proceeding are limited to:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b). A Rule 60(b) motion may not be used as a substitute for a timely appeal. *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1203 (5th Cir. 1993). The court uses equitable principles when applying Rule 60(b). See 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2857 (3d ed. 1998). The so-called catch-all provision, Federal Rule of Civil Procedure 60(b)(6), is "a grand reservoir of equitable power to do justice in a particular case." *Uni-Rty Corp. V. Guangdong Bldg., Inc.*, 571 F. App'x 62, 65 (2d Cir. 2014) (citation omitted). While the other enumerated provisions of Rule 60(b) and Rule 60(b)(6) are mutually exclusive, relief under Rule 60(b)(6) may be granted in extraordinary circumstances. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 & n.11 (1988).

A condition of granting relief under Rule 60(b) is that the requesting party show that there is a meritorious claim or defense. This does not require a showing that the moving party will or is likely to prevail in the underlying action. Rather, the party seeking the relief must allege enough facts that, if taken as true, allow the court to determine if it appears that such defense or claim could be meritorious. 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶¶ 60.24[1]-[2] (3d ed. 2010); see also *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

Additionally, when reviewing a motion under Rule 60(b), courts consider three factors: "(1) whether the plaintiff will be prejudiced, (2) whether the defendant has a meritorious defense, and (3) whether culpable conduct of the defendant led to the default." *Falk*, 739 F.2d at 463 (citations omitted).

Another consideration is the importance of finality of judgments. The standard for determining whether a Rule 60(b)(1) motion is filed within a reasonable time is a case-by-case analysis. The analysis considers "the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties." *Gravatt v. Paul Revere Life Ins. Co.*, 101 F. App'x 194, 196 (9th Cir. 2004) (citations omitted); *Sallie Mae Servicing, LP v. Williams (In re Williams)*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (citation omitted).

DISCUSSION

The debtor's declaration concedes that she can not afford the plan payments and she is unable to bring the plan payments current. Therefore, the court is not persuaded it should vacate the order dismissing the case.

The court shall issue a minute 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 to Vacate filed by Kathy M. Jones 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, and the case will remain dismissed.