



**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**November 25, 2025 at 11:00 a.m.**

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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.

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**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**November 25, 2025 at 11:00 a.m.**

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1.     [24-24703](#)-C-13     JACK/VONDA KIRK                     MOTION FOR RELIEF FROM  
                          Catherine King                     AUTOMATIC STAY  
  9-23-25 [[24](#)]

JACK KIRK VS.

**Tentative Ruling:**

The Motion has not been set according to Local Rules and a Proof of Service was not filed with the Motion.

<p><b>The Motion for Relief from the Automatic Stay is granted.</b></p>
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Debtors, Vonda and Jack Kirk, ("Movant") filed this Motion seeking relief from the automatic stay to allow Kirk v. Select Portfolio Services, Case No. 24CV-0205987, in Shasta County Superior Court ( the "Litigation") to be concluded.

Movant argues that continuing the action in state court is in the interests of judicial economy and fairness. Declaration, Dkt. 24.

**DISCUSSION**

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at \*8-9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at \*9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at \*6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. See *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d

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1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co.* (In re Kemble), 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders* (In re Santa Clara Cty. Fair Ass'n), 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc.* (In re Plumberex Specialty Prods., Inc.), 311 B.R. 551 (Bankr. C.D. Cal. 2004).

The court finds that the nature of the Litigation warrants relief from stay for cause. The Movants, who are also the debtors in this case, represent that they are prepared to move forward with the state court action, and that dispositive motions are pending.

The court shall issue an order modifying the automatic stay as it applies to Debtor to allow Movant to continue the Litigation. The automatic stay is not modified with respect to enforcement of the judgment against the debtors, the Chapter 13 Trustee, or property of the bankruptcy estate. Any judgment obtained shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted by the court.

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 Vonda and Jack Kirk ("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 automatic stay provisions of 11 U.S.C. § 362(a) are modified as applicable to the debtors 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 to proceed with litigation in Kirk v. Select Portfolio Services, Case No. 24CV-0205987, in Shasta County Superior Court .

**IT IS FURTHER ORDERED** that the automatic stay is not modified with respect to enforcement of any judgment the debtors, the Chapter 13 Trustee, or property of the bankruptcy estate. Any judgment obtained by Movant shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted.

2. [25-24931](#)-C-13 LINDA CATRON  
[LC-1](#) Pro Se

CONTINUED NOTICE OF INTENT TO  
DISMISS CASE IF DOCUMENT ARE  
NOT TIMELY FILED  
9-11-25 [[3](#)]

Thru #3

**Tentative Ruling:**

The Clerk issued a Notice of Incomplete Filing and Intent to Dismiss Case on September 15, 2025. Dkts. 3 & 10.

**The Case is Dismissed for failure to timely file documents.**

On September 11, 2025, Debtor, Linda Sue Catron, filed a voluntary petition commencing this case. A Notice of Incomplete Filing and Notice of Intent to Dismiss Case if Documents Are Not Timely Filed ("Notice") was served on September 17, 2025. Dkts. 10 & 11. The Notice indicated that Debtor had not filed the following documents:

Chapter 13 Plan  
Form 122C-1 Statement of Monthly Income  
Schedule A/B - Real and Personal Property  
Schedule C - Exempt Property  
Schedule D - Secured Creditors  
Schedule E/F - Unsecured Creditors  
Schedule G - Executory Contracts  
Schedule H - Codebtors  
Schedule I - Current Income  
Schedule J - Current Expend.  
Statement of Financial Affairs  
Summary of Assets and Liabilities

Dkts. 3 & 10.

The Notice gave Debtor through September 25, 2025 to file all of the documents.

Debtor filed an amended Statement of the Issues on September 29, 2025. Debtor asserts she is recovering from pneumonia, is seeking counsel, and needs additional time to put schedules together.

This is debtor's ninth case since 2018, the prior five cases being: Case No. 25-21686, filed April 9, 2025, dismissed on July 25, 2025; Case No. 24-21762, filed April 29, 2024, dismissed on January 6, 2025; Case No. 24-2101, filed January 10, 2024, dismissed on April 11, 2024; Case No. 23-22522, filed July 31, 2023, dismissed on October 19, 2023; and Case No. 23-20616, filed February 28, 2023, dismissed on July 28, 2023. All cases were dismissed for failing to timely file documents, including proof of social security number, and/or delinquency in plan payments, and/or failure to timely confirm a plan.

In dismissing Case No. 25-21686, the Court found that Debtor was unwilling or unable to fulfill her duties as a chapter 13 debtor and was

pursuing nothing more than delay tactics. The dismissal of that case also ordered that "the discharge of debts is barred in future cases for debts that were dischargeable in this dismissed case." Case No. 25-21686, dkt. 62.

It has now been over six weeks since the time the Notice gave Debtor to timely file documents and still none of the required documents have been filed.

Given Debtor's filing history and inability or unwillingness to fulfill her duties as a chapter 13 debtor, it is obvious this is just another delay tactic.

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.

**IT IS ORDERED** that the case is  
dismissed for failure to timely file required  
documents.

3. [25-24931](#)-C-13 LINDA CATRON  
Pro Se

ORDER TO SHOW CAUSE  
11-13-25 [[24](#)]

**No Tentative Ruling:**

The court issued this Order to Show Cause why the debtor would not be barred from filing another case under Title 11 of the United States Code without first obtaining permission from either the judge assigned to this case or the Chief Bankruptcy Judge. Dkt. 24.

Debtor had until November 21, 2025, to respond in writing.

Therefore, the Order to Show Cause is **xxxxxxxxxx**

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 Order to Show Cause 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 Order to Show Cause is **xxxxxxx**

4. [25-23436](#)-C-13 OMAR ASKAR  
[CRG](#)-1 Carl Gustafson

MOTION TO CONFIRM PLAN  
10-7-25 [[17](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 49 days' notice was provided. Dkt. 22.

**The Motion to Confirm is granted.**

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 21) filed on October 7, 2025.

The Chapter 13 Trustee filed an Opposition (Dkt. 26) on November 10, 2025, opposing confirmation on the following grounds:

1. Debtor's Schedule J shows a monthly income that is less than the amount of the plan payments.

The debtor filed a response representing he has filed an amended Schedule J that addresses the Trustee's issue.

**DISCUSSION**

Debtor's amended Scheduled J shows a monthly net income of \$1,463.78, which is more than the \$1,460.00 monthly plan payment for the last 56 months of the plan.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan is confirmed.

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 Confirm filed by the debtor, Omar Askar, 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, the Amended Chapter 13 Plan (Dkt. 21) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. Counsel for the debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.



5. [23-24053](#)-E-13 VIRGINIA MARTINEZ  
[PGM](#)-1 Peter Macaluso

MOTION TO MODIFY PLAN  
10-21-25 [[61](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 35 days' notice was provided. Dkt. 67.

**The Motion to Modify is denied.**

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 63) filed on October 21, 2025.

The Chapter 13 Trustee filed an Opposition (Dkt. 71) on November 10, 2025, opposing confirmation on the following grounds:

1. The plan does not provide for the correct amount of payments already paid through October 2025; and
2. Debtor's declaration does not match what is proposed in the plan.

**REPLY**

The debtor filed a reply (Dkt. 74) on November 18, 2025, representing that debtor was unaware that a pending payment for October had been made when the modified plan was filed.

**DISCUSSION**

The debtor has not demonstrated the plan is feasible because the plan terms are different from the amounts actually paid. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

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 Modify filed by the debtor, Virginia Martinez, 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 plan is not confirmed.

6. [24-25862](#)-C-13 SUSAN SCOTT  
[NLG](#)-1 Cindy Lee Hill

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
10-17-25 [[93](#)]

MARLIN MORTGAGE CAPITAL, LLC  
VS.

### **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. 98.

<b>The Motion for Relief from the Automatic Stay is granted.</b>
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Marlin Mortgage Capital, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's property commonly known as 511 Glen Rd., Weaverville, CA (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent \$6,453.18 in postpetition payments. Declaration, Dkt. 95.

### **TRUSTEE'S RESPONSE**

The Chapter 13 Trustee filed a notice of non-opposition to the motion. Dkt. 104.

### **DEBTOR'S OPPOSITION**

Debtor filed an Opposition on November 12, 2025. Dkt. 106. Debtor asserts that Movant increased her mortgage payment without notifying her, and that Movant's claim is for an escrow deficiency. Debtor contends she is in the process of filing an amended plan that addresses the increased payment and the arrearages, which she asserts will be paid with the proceeds from the sale of the Property.

### **REPLY**

Movant filed a reply (Dkt. 109) on November 18, 2025, asserting that debtor's opposition admits she is delinquent in postpetition payments and does not provided specific details about when a plan will be proposed, or the parameters of a sale of the property.

### **DISCUSSION**

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent \$6,453.18 in postpetition payments.

Language vacating stay

Based on the foregoing, the Motion is granted. 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 repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

#### **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, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not 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 not granted.

No other or additional relief is granted by the court.

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 Relief from the Automatic Stay filed by Marlin Mortgage Capital, 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 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 511 Glen Rd., Weaverville, CA, California, ("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 fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

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7. [25-22780](#)-C-13 FLORENTINA MAZZONE-URIE MOTION TO CONFIRM TERMINATION  
[AP-1](#) Peter Macaluso OR ABSENCE OF STAY AND/OR  
MOTION FOR RELIEF FROM  
CO-DEBTOR STAY  
10-24-25 [[52](#)]

**Final Ruling:** No appearance at the November 25, 2025 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 58.

**The Motion for Confirmation and Relief from the Automatic Stay is granted.**

HSBC Bank USA, National Association, as Trustee for Mortgage Pass-Through Certificates, MLMBS Series 2007-1 ("Movant") filed this Motion seeking to confirm the automatic stay is not in place with respect to the debtor and seeking relief from the automatic stay as to the co-debtor for the property commonly known as 824 Dell Road, Pacifica, CA (the "Property").

Movant asserts that debtor has filed two previous cases that have been dismissed within the year prior to the filing of this case.

#### **DEBTOR'S RESPONSE**

Debtor filed a response on November 11, 2025. Dkt. 65. Debtor asserts that she has no basis to oppose the Motion.

#### **TRUSTEE'S RESPONSE**

The Chapter 13 filed a statement of non-opposition on November 13, 2025. Dkt. 68.

#### **DISCUSSION**

Section 362(c)(4)(A)(i) states that the stay shall not go into effect if an individual debtor has filed 2 or more cases that were pending within the previous year but were dismissed prior to the filing of the instant case. 11 U.S.C. § 362(c)(4)(A)(i). A party in interest may request an order confirming that no stay is in effect. 11 U.S.C. § 362(c)(4)(A)(ii).

This is Debtor's third bankruptcy petition pending in the past year with the prior two cases having been dismissed. Debtor's prior bankruptcy cases (Nos. 25-20048 (E.D. Cal.) and 24-30350 (N.D. Cal.) were dismissed on February 4, 2025, and November 18, 2024, respectively. Therefore, pursuant to 11 U.S.C. § 362(c)(4)(A)(i), the provisions of the automatic stay did not go into effect upon Debtor filing the instant case.

#### **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(a), that it would be irreparably harmed if relief from the co-debtor stay were not granted because the borrowers on the loan are not making payments and the total postpetition missed payments amount to \$15,334.80 with prepetition arrears totaling \$698,902.94.

Language vacating stay

Based on the foregoing, the Motion is granted. 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 repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

No other or additional relief is granted by the court.

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 Relief from the Automatic Stay filed by HSBC Bank USA, National Association, as Trustee for Mortgage Pass-Through Certificates, MLMBS 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 relief is granted pursuant to the Motion, the court confirming that all bankruptcy stays did not go into effect pursuant to 11 U.S.C. § 362(c)(4)(A)(i) as to the real property commonly known as 824 Dell Road, Pacifica, California, ("Property") and 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 Property are allowed 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 request to terminate the co-debtor stay of Gerald W. Urie and Suzie Urie of 11 U.S.C. § 1301(a) is granted to the same extent as provided in the foregoing paragraph granting relief from the automatic stay arising under 11 U.S.C. § 362(a).

No other or additional relief is granted.

8. [25-23683](#)-C-13 KATHLEEN DAVIS  
[PGM](#)-1 Peter Macaluso

CONTINUED MOTION TO VALUE  
COLLATERAL OF ALLY BANK  
9-15-25 [[22](#)]

**No 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 30 days' notice was provided. Dkt. 26.

**The Motion to Value is ~~xxxxx~~.**

The matter was continued at the prior hearing on October 14, 2025 to allow Creditor time to inspect and appraise the property.

The debtor filed this Motion seeking to value the portion of Ally Banks's ("Creditor") claim secured by the debtor's property commonly known as 2021 Dodge Ram 3500 Crew Cab (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$19,000.00. Declaration, Dkt. 24.

**TRUSTEE'S RESPONSE**

The Chapter 13 Trustee filed a statement of non-opposition on September 29, 2025. Dkt. 32.

**OPPOSITION**

Ally Bank filed opposition (Dkt. 34) on September 30, 2025 asserting the value of the Property to be \$39,801.00.

**REPLY**

Debtor filed a reply contending that Ally Bank has not provided competent admissible evidence.

**DISCUSSION**

The lien on the Vehicle's title secures a purchase-money loan incurred on November 2, 2021, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Federal Rule of Bankruptcy Procedure 9014(d) provides that testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding. Because there is a disputed material fact, the Matter must be set for evidentiary hearing.

Upon review of the record, the court finds the value of the Property is ~~xxx~~. Therefore, Creditor's secured claim is determined to be ~~\$xxx~~. 11

U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the 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 pursuant to 11 U.S.C. § 506(a) is ~~xxxxxxx~~, and the claim of Ally Bank ("Creditor") secured by property commonly known as 2021 Dodge Ram 3500 Crew Cab (the "Property") is determined to be a secured claim in the amount of \$~~xxxx.xx~~, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(3) which requires an Order Shortening Time. An OSC was entered on November 18, 2025. Dkt. 19.

**The Motion to Extend the Automatic Stay is granted.**

Tyrone Darden ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on November 3, 2025, after Debtor did not timely file all documents. Order, Bankr. E.D. Cal. No. 25-25643, Dkt. 13. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that the previous case was dismissed before debtor's counsel was officially substituted in for the pro se debtor.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at \*6 (Bankr. D. Haw. June 22, 2011) (citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith



under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c) (3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

*In re Elliot-Cook*, 357 B.R. at 814-15.

Debtor has sufficiently rebutted the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The Motion is granted, and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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 Extend the Automatic Stay filed by Tyrone Darden 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 the automatic stay is extended pursuant to 11 U.S.C. § 362(c) (3) (B) for all purposes and parties, unless terminated by operation of law or further order of this court.