

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: December 3, 2024

CALENDAR: 1:00 P.M. CHAPTER 13

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. 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 and no appearance is necessary. 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 seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

December 3, 2024 at 1:00 p.m.

1. [24-90318](#)-B-13 LENE HERNANDEZ MOTION TO MODIFY PLAN
 [PGM](#)-1 Peter G. Macaluso 10-22-24 [[53](#)]

CONTINUED TO 12/17/24 AT 1:00 P.M. TO ALLOW DEBTOR AND CREDITOR HYUNDAI CAPITAL AMERICA D/B/A/ KIA MOTORS FINANCE TO RESUME NEGOTIATIONS AS TO THE VALUE OF A 2022 KIA K5. A RESPONSE AND/OR STIPULATION BY THE DEBTOR AND CREDITOR SHALL BE FILED BY 5:00 P.M. 12/13/24.

Final Ruling

No appearance at the December 3, 2024, hearing is required. The court will issue an order.

December 3, 2024 at 1:00 p.m.

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2. [24-90667](#)-B-13 KIM GRUPE
[ADR](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
11-8-24 [[11](#)]

ALICIA CAMARILLO VS.

Final Ruling

The case having been dismissed on November 25, 2024, the motion for relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) is denied as moot.

The motion is ORDERED DENIED AS MOOT for reason stated in the minutes.

The court will issue an order.

3. [24-90187](#)-B-13 ERIC JOHNSON MOTION FOR RELIEF FROM
[DCJ](#)-1 Seth L. Hanson AUTOMATIC STAY
11-19-24 [[24](#)]

ATH KITTIPHANE VS.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion for relief from automatic stay and continue the matter to December 10, 2024, at 1:00 p.m.**

Ath Kittiphane ("Movant") seeks relief from the automatic stay in order to allow *Kittiphane v. Johnson, et al.* ("State Court Litigation") to move forward. The State Court Litigation commenced eight months prior to the petition date and was filed by Movant to partition real property located at 3712 Don Pedro Court, Ceres, California ("Property"), which Debtor and Movant each hold a 50 percent interest. The moving party has provided the Declaration of Kittiphane to introduce evidence to authenticate the documents upon which it bases the claim.

The bankruptcy 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 basis for such relief to litigate in another forum is predicated on factors of judicial economy. See *Truebro, Inc. v. Plumberex Specialty Products, Inc. (In re Plumberex Specialty Products, Inc.)*, 311 B.R. 551, 556-557. (Bankr. C.D. Cal. 2004). Moreover, "[t]he validity of [a] claim or contract underlying the claim is not litigated during the [stay relief] hearing." *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985), *cert. denied*, 474 U.S. 828 (1985).

The court finds that the nature of the State Court Litigation warrants relief from stay for cause. The issues in the State Court Litigation arise under state law and there are no bankruptcy issues. Therefore, judicial economy dictates that the state court be allowed to continue.

The court shall issue an order modifying the automatic stay as it applies to the Debtor to allow the Movant to continue the State Court Litigation.

The automatic stay is not modified with respect to the enforcement of the judgment against the Debtor, Trustee, or property of the bankruptcy estate. Any judgment obtained shall be brought back to this court for the proper treatment of any claims under the Bankruptcy Code.

No other or additional relief is granted by the court.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, December 6, 2024, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on December 10, 2024, at 1:00 p.m. will be vacated.

December 3, 2024 at 1:00 p.m.

If an opposition or response is timely filed and served, the court will hear the motion on December 10, 2024, at 1:00 p.m.