

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

January 27, 2016 at 10:00 a.m.

1. [15-27814](#)-B-13 SHEILA FOSTER MOTION TO DISMISS CASE
 JPJ-2 Mary Ellen Terranella 12-15-15 [[53](#)]

Final Ruling: No appearance at the January 27, 2016, hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f) (1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f) (1) (ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). 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-BuTrk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent 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 court's decision is to dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for November 5, 2015, and the continued meeting of creditors held on November 19, 2015 as required pursuant to 11 U.S.C. § 343.

Second, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$1,670.00, which represents approximately 1 plan payment. By the time this matter is heard, two additional plan payments in the amount of \$1,670.00 will also be due. Cause exists to dismiss the case pursuant to 11 U.S.C. §§ 1307(c) (1) and (c) (4).

Third, the Debtor has not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e) (2) (A) (1).

Fourth, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a) (1) (B) (iv).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

2. [15-28217](#)-B-13 JUAN DIAZ ORDER TO SHOW CAUSE - FAILURE
Thru #4 Pro Se TO PAY FEES
12-28-15 [[36](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due December 21, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

3. [15-28217](#)-B-13 JUAN DIAZ ORDER TO SHOW CAUSE - FAILURE
Pro Se TO PAY FEES
12-2-15 [[20](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due November 23, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

4. [15-28217](#)-B-13 JUAN DIAZ MOTION TO DISMISS CASE
JPJ-2 Pro Se 12-9-15 [[28](#)]

Final Ruling: No appearance at the January 27, 2016, hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). 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-BuTrk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent 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 court's decision is to dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for

December 3, 2015, pursuant to 11 U.S.C. § 343.

Second, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Third, the Debtor has not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fourth, the Debtor has not filed a certificate of completion from an approved nonprofit budget and credit counseling agency. The Debtor has not complied with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C. § 190(h).

Fifth, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$100.00, which represents approximately 1 plan payment. By the time this matter is heard, two additional plan payments in the amount of \$100.00 each will also be due. The Debtor has not made any plan payments since this petition was filed on October 22, 2015. Cause exists to dismiss the case pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

5. [15-27132](#)-B-13 LYNN/ARMIE SLATER
Chinonye Ugorji

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-14-15 [[35](#)]

DEBTOR DISMISSED:

12/15/2015

JOINT DEBTOR DISMISSED:

12/15/2015

Final Ruling: No appearance at the January 27, 2016, hearing is required.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on December 15, 2015 (Dkt.37), the Order to Show Cause is discharged as moot, with no sanctions ordered.

6. [15-28634](#)-B-13 PALMER COOKE ORDER TO SHOW CAUSE - FAILURE
Thru #7 Mikalah R. Liviakis TO PAY FEES
12-11-15 [[21](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on December 7, 2015. While the delinquent installment was paid on December 17, 2015, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.

7. [15-28634](#)-B-13 PALMER COOKE ORDER TO SHOW CAUSE - FAILURE
Mikalah R. Liviakis TO PAY FEES
1-11-16 [[26](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due January 5, 2016. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

8. [15-27538](#)-B-13 CHRISTINA JIMENEZ ORDER TO SHOW CAUSE - FAILURE
Thru #10 Marc A. Caraska TO PAY FEES
1-4-16 [[36](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due December 28, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

9. [15-27538](#)-B-13 CHRISTINA JIMENEZ ORDER TO SHOW CAUSE - FAILURE
Marc A. Caraska TO PAY FEES
12-2-15 [[31](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due November 30, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

10. [15-27538](#)-B-13 CHRISTINA JIMENEZ MOTION TO DISMISS CASE
JPJ-1 Marc A. Caraska 1-11-16 [[38](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$887.88, which represents approximately 2 plan payments. By the time this matter is heard, an additional plan payment in the amount of \$445.96 will also be due. Cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1).

The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

11. [15-26939](#)-B-13 JUANA CABRERA AND CUONG MOTION TO DISMISS CASE
JPJ-2 LE 12-15-15 [[28](#)]
Peter G. Macaluso

Tentative Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not dismiss the case.

The Debtors filed an amended plan on January 25, 2016. The Debtors are taking measures to prosecute this case and to avoid unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause does not exist to dismiss this case. The motion denied without prejudice and the case is not dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

12. [11-35941](#)-B-13 JANEEN MCCAULEY
JPJ-14 Peter G. Macaluso

MOTION TO DISMISS CASE
12-9-15 [[56](#)]

Tentative Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$825.00, which represents approximately 3 plan payments. Although the Debtor states that it will be current on or before the hearing on this matter, the Trustee has issued thirteen (13) Notices of Default and Applications to Dismiss Case in this case dating back to October 2011. The Debtor does not appear to be able to fund the proposed plan payments and has consistently been behind on plan payments for the life of the plan. Cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1).

The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

13. [15-25941](#)-B-13 DEDRA RUSSELL
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-2-15 [[39](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the final \$10.00 installment when due on November 25, 2015. While the delinquent installment was paid on January 14, 2016, the fact remains the court was required to issue an order to show cause to compel the payment.

Moreover, this is the court's third time issuing an order to show cause to compel payment. As stated in the court's civil minute order dated November 25, 2015, if a future payment is not received by its due date, the case will be dismissed without further notice of hearing. The Debtor failed to make the November 25, 2015, payment when due. As such, the case will be dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

14. [15-27741](#)-B-13 RICHARD GARLINGHOUSE
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-4-16 [[21](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$77.00 installment when due on December 30, 2015. The delinquent installment was paid on January 12, 2016, and includes the final installment payment. The order to show cause will be discharged and the case shall proceed in this court.

The court shall enter an appropriate civil minute order consistent with this ruling.

15. [15-29445](#)-B-13 KEVIN MITCHELL
Matthew J. DeCaminada

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-17-15 [[10](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$310.00 for filing the Chapter 13 voluntary petition. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

16. [15-28348](#)-B-13 ALEXANDER SCOTT MOTION TO DISMISS CASE
JPJ-2 Kristy A. Hernandez 12-9-15 [[36](#)]

WITHDRAWN BY M.P.

Final Ruling: No appearance at the January 27, 2016, hearing is required.

The Chapter 13 Trustee having filed a Notice of Withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar and the case will proceed in this court.

The court shall enter an appropriate civil minute order consistent with this ruling.

17. [15-27051](#)-B-13 SUSAN REICHARD
Julius M. Engel

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-14-15 [[35](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$77.00 installment when due on December 7, 2015. The delinquent installment was paid on December 31, 2015, and a final installment was paid on January 6, 2016. The order to show cause will be discharged and the case shall proceed in this court.

The court shall enter an appropriate civil minute order consistent with this ruling.

18. [15-27551](#)-B-13 SUSAN LAUGHERY
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-2-15 [[52](#)]

DEBTOR DISMISSED: 12/19/2015

Final Ruling: No appearance at the January 27, 2016, hearing is required.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on December 19, 2015 (Dkt.61), the Order to Show Cause is discharged as moot, with no sanctions ordered.

19. [15-29351](#)-B-13 FILIBERTO VAZQUEZ ORDER TO SHOW CAUSE - FAILURE
Thru #20 Thomas O. Gillis TO PAY FEES
1-4-16 [[24](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due December 30, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

20. [15-29351](#)-B-13 FILIBERTO VAZQUEZ MOTION TO DISMISS CASE
JPJ-1 Thomas O. Gillis 1-13-16 [[26](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$2,527.00, which represents the first plan payment that was due December 25, 2015. By the time this matter is heard, an additional plan payment in the amount of \$2,527.00 will also be due. Cause exists to dismiss the case pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

Second, the Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 3015-1(c)(3) and 3015-1(d)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

21. [15-29155](#)-B-13 SHAMEKA BATTE ORDER TO SHOW CAUSE - FAILURE
Thru #22 Pro Se TO PAY FEES
12-29-15 [[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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due December 24, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

22. [15-29155](#)-B-13 SHAMEKA BATTE MOTION TO DISMISS CASE
JPJ-1 Pro Se 1-11-16 [[32](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for January 7, 2016, as required pursuant to 11 U.S.C. § 343.

Second, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$25.00, which represents 1 plan payment. By the time this matter is heard, an additional plan payment in the amount of \$25.00 will also be due. Cause exists to dismiss the case pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

Third, the Debtor has not filed a certificate of completion from an approved nonprofit budget and credit counseling agency. The Debtor has not complied with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C. § 190(h).

Fourth, the Debtor has not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fifth, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Sixth, the Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 3015-1(c)(3) and 3015-1(d)(1). Additionally, the 45-day deadline to hold a confirmation hearing set by 11 U.S.C. § 1324 will expire on February 22, 2016. Since there is a required 42-days' notice of hearing to confirm the plan, the court cannot timely conduct a confirmation hearing. Fed. R. Bankr. P. 2002(b) and Local Bankr. R. 9014-1(f)(1)(B).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

23. [15-28359](#)-B-13 LAURA RICHARDS ORDER TO SHOW CAUSE - FAILURE
Thru #25 Pro Se TO PAY FEES
1-4-16 [[26](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due December 28, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

24. [15-28359](#)-B-13 LAURA RICHARDS ORDER TO SHOW CAUSE - FAILURE
Pro Se TO PAY FEES
12-2-15 [[19](#)]

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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due November 30, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

25. [15-28359](#)-B-13 LAURA RICHARDS MOTION TO DISMISS CASE
JPJ-1 Pro Se 12-9-15 [[21](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's decision is to dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for December 3, 2015, as required pursuant to 11 U.S.C. § 343.

Second, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Third, the Debtor has not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed. The Debtor has not complied with 11

U.S.C. § 521(e) (2) (A) (1) .

Fourth, the Debtor is not eligible for relief under the United States Bankruptcy code pursuant to 11 U.S.C. § 190(h) as the briefing was not received during the 180-day period preceding the date of the filing of the petition.

Fifth, the Debtor has not made any plan payments into this case. Although the Debtor's plan does not supply a monthly plan payment amount, the Debtor's first plan payment would have been due by November 25, 2015. By the time this matter is heard, 2 additional plan payments will have come due. The Debtor's failure to make plan payments has caused unreasonable delay that is prejudicial to creditors. Cause exists to dismiss the case pursuant to 11 U.S.C. §§ 1307(c) (1) and (c) (4).

Sixth, the Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 3015-1(c) (3) and 3015-1(d) (1). Additionally, the 45-day deadline to hold a confirmation hearing set by 11 U.S.C. § 1324 expired on January 17, 2016. Since there is a required 42-days' notice of hearing to confirm the plan, the court cannot timely conduct a confirmation hearing. Fed. R. Bankr. P. 2002(b) and Local Bankr. R. 9014-1(f) (1) (B).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

26. [11-48264](#)-B-13 BRIAN/KAREN CESAR
JPJ-10 Peter G. Macaluso

MOTION TO DISMISS CASE
12-17-15 [[101](#)]

Tentative Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

The Debtors are delinquent to the Chapter 13 Trustee in the amount of \$7,084.28, which represents approximately 2 plan payments. By the time this matter is heard, two additional plan payments in the amount of \$3,547.32 each will also be due. Although the Debtors state that they will be current on or before the hearing on this matter, the Trustee has issued nine (9) Notices of Default and Applications to Dismiss Case in this case dating back to August 2012. Additionally, the Debtors have failed to make approximately 2 of the 4 plan payments that have come due since the filing of their modified plan that was granted on October 7, 2015. The Debtors do not appear to be able to fund the proposed plan payments and have consistently been behind on plan payments, which has caused a post-petition mortgage delinquency in the plan. This has caused an unreasonable delay that is prejudicial to creditors over the life of the plan. Cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1).

The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

27. [15-29383](#)-B-13 KHASHAYAR ELMI
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-5-16 [[16](#)]

Tentative Ruling: The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on December 31, 2015. While the delinquent installment was paid on January 7, 2016, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court shall enter an appropriate civil minute order consistent with this ruling.