

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

March 17, 2015 at 10:00 a.m.

1. [14-26904](#)-B-13 DANIEL WEAVER MOTION TO DISMISS CASE
JPJ-2 Scott D. Hughes 2-9-15 [[89](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

The Debtor has not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1).

The Debtor is delinquent to the Trustee in the amount of \$21,490.00, which represents approximately 5 plan payments. By the time this motion is heard, an additional plan payment in the amount of \$4,298.00 will also be due. Cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1).

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

2. [13-29606](#)-B-13 MARIA AVINA AND GUILLERMO MOTION TO DISMISS CASE
JPJ-3 AVINA-SEGURA 1-20-15 [[196](#)]
D. Randall Ensminger

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

The case has been pending as a Chapter 13 for fourteen (14) months with no confirmable plan in prospect. The Debtors have not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1).

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

3. [14-31614](#)-B-13 JAMES DEMERIN
JPJ-1 Arasto Farsad

MOTION TO DISMISS CASE
1-26-15 [[20](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

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 bankruptcy relief under 11 U.S.C. §109(h).

The Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 2015-1(c)(3) and 3015-1(d)(1). This is cause to dismiss under 11 U.S.C. § 1307(c)(1). Additionally, the confirmation hearing 45-day deadline set by 11 U.S.C. § 1324 expired on February 23, 2015. Because the court cannot timely conduct a confirmation hearing, there is cause for dismissal of the case.

The Debtor is \$514.56 delinquent in plan payments. By the time this motion is heard, an additional plan payment in the amount of \$514.56 is due. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

4. [14-28933](#)-B-13 ANA RODRIGUEZ
JPJ-2 Peter G. Macaluso

MOTION TO DISMISS CASE
2-26-15 [[36](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion 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. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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.

The Motion to Dismiss is granted and the case is dismissed.

The Debtor has not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). To date, the Debtor has not taken any further action to confirm a plan in the case.

The Debtor is \$2,460.00 delinquent to the Trustee in plan payments. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

5. [14-32136](#)-B-13 MARISA FORMAN
Thru #6 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-21-15 [[43](#)]

CASE DISMISSED 2/9/15

6. [14-32136](#)-B-13 MARISA FORMAN
JPJ-1 Pro Se

MOTION TO DISMISS CASE
2-4-15 [[48](#)]

CASE DISMISSED 2/9/15

7. [14-27638](#)-B-13 DVASHUN RAY AND CASSANDRA MOTION TO DISMISS CASE
JPJ-2 COFFMAN-RAY 2-20-15 [[49](#)]
Julius M. Engel

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion 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. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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.

The Motion to Dismiss is granted and the case is dismissed.

The Debtor has not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). To date, the Debtor has not taken any further action to confirm a plan in the case.

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

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion 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. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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.

The Motion to Dismiss is conditionally denied and the matter is continued to April 15, 2015 to be heard in conjunction with Debtor's Motion to Confirm First Amended Plan.

Debtor has filed a First Amended Chapter 13 Plan to be heard on April 15, 2015, this court's first available hearing date. Debtor asserts that he will be current on all plan payments by the time the motion comes for hearing.

Debtor's failure to timely file his First Amended Chapter 13 Plan was caused by the necessity of the Debtor to obtain copies of any and all property taxes and other liens against his properties. Debtor anticipates filing an amended Schedule D prior to the hearing on the Chapter 13 Trustee's motion to dismiss.

Cause does not exist to dismiss this case. The motion is conditionally denied.

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

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 bankruptcy relief under 11 U.S.C. § 109(h).

The Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 2015-1(c)(3) and 3015-1(d)(1). This is cause to dismiss under 11 U.S.C. § 1307(c)(1). Additionally, the confirmation hearing 45-day deadline set by 11 U.S.C. § 1324 expired on February 23, 2015. Because the court cannot timely conduct a confirmation hearing, there is cause for dismissal of the case.

The Debtor is required to serve upon the Trustee no later than fourteen (14) days after the filing of the petition a Class 1 Authorization to Release Information. To date, the Debtor has not provided the Trustee with these documents. The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

The Debtor is \$605.00 delinquent in plan payments to the Trustee. By the time this motion is heard, an additional plan payment in the amount of \$605.00 will also be due. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

10. [14-31452](#)-B-13 JULIE RAYMOND ORDER TO SHOW CAUSE - FAILURE
Thru #11 Julius M. Engel TO PAY FEES
2-24-15 [[25](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Debtor made her final installment fee of \$231.00 on February 25, 2015.

11. [14-31452](#)-B-13 JULIE RAYMOND ORDER TO SHOW CAUSE - FAILURE
Julius M. Engel TO PAY FEES
1-26-15 [[20](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Debtor made her final installment fee of \$231.00 on February 25, 2015.

12. [14-30057](#)-B-13 ANDREW HANZO
Tien D. Duong

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-10-15 [[72](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Debtor made her final installment fee of \$78.00 on February 11, 2015.

13. [14-31759](#)-B-13 WILLIAM BARRANTES MOTION TO DISMISS CASE
JPJ-2 Richard L. Sturdevant 1-26-15 [[28](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

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 bankruptcy relief under 11 U.S.C. §109(h).

The Debtor is delinquent to the Trustee in the amount of \$4,988.00, which presents approximately two plan payments. By the time this motion will be heard, an additional plan payment in the amount of \$2,494.00 will also be due. The Debtor has not made any plan payments since this petition was filed in December 1, 2014. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The Debtor has not provided a copy of his 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).

The Debtor has not provided the Trustee with employer payment advices for the 60-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv).

The Debtor is required to serve upon the Trustee no later than fourteen (14) days after the filing of the petition a Class 1 Authorization to Release Information. To date, the Debtor has not provided the Trustee with these documents. The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

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

14. [15-20164](#)-B-13 GEORGE NJENGE AND RACHEL MOTION TO DISMISS CASE
JPJ-2 EKinDESONE 2-18-15 [[19](#)]
D. Randall Ensminger

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion 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. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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.

The Motion to Dismiss is granted and the case is dismissed.

The Debtor owes more than \$383,175 in non-contingent, liquidated, unsecured debts and is therefore not eligible for relief under 11 U.S.C. § 109(e).

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

15. [14-29665](#)-B-13 SCOTT BARBER ORDER TO SHOW CAUSE - FAILURE
Julie B. Gustavson TO PAY FEES
2-2-15 [[44](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Debtor made her final installment fee of \$72.00 on February 11, 2015.

16. [14-22472](#)-B-13 TIMOTHY KRUSE MOTION TO DISMISS CASE
JPJ-2 Michael David Croddy 2-9-15 [[136](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

The Motion to Dismiss 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-Burk (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 Motion to Dismiss is granted and the case is dismissed.

The Debtor has not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). To date, the Debtor has not taken any further action to confirm a plan in the case.

The Debtor is delinquent to the Trustee in the amount of \$7,722.00, which represents approximately six (6) plan payments. By the time this motion will be heard, an additional plan payment in the amount of \$1,287.00 will also be due. There is cause to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1).

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

17. [14-27181](#)-B-13 DONALD TAGGART MOTION TO DISMISS CASE
JPJ-3 Gary Ray Fraley 2-9-15 [[58](#)]

Final Ruling: No appearance at the March 17, 2015 hearing is required.

On March 9, 2015 the Chapter 13 Trustee filed a Withdrawal of the Motion to Dismiss the Bankruptcy Case. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice, and the matter is removed from the calendar.

18. [14-30882](#)-B-13 JESSICA RAMSEY
Marc A. Caraska

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-6-15 [[39](#)]

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 court's docket as of March 16, 2015 reflects that the default in payment, which is the subject of the Order to Show Cause, has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00 due February 2, 2015.

19. [14-29108](#)-B-13 ROSEMARIE LANDRY
MOH-7 Michael O'Dowd Hays

MOTION FOR PRE-CONFIRMATION
DISBURSEMENT BY THE TRUSTEE TO
SECURED MORTGAGE CREDITORS
O.S.T.
3-12-15 [[75](#)]

Tentative Ruling: The court issues no tentative ruling.

The motion has been set for hearing on an order shortening time by Local Bankruptcy Rule 9014-1(f)(3). Since the time for service is shortened to fewer than 14 days, no written opposition is required.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues that are necessary and appropriate to the court's resolution of the matter.

The motion will be determined at the scheduled hearing.