

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: April 27, 2021

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

Sacramento, California

April 27, 2021 at 1:00 p.m.

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1. [21-20402](#)-B-13 ALFONSO PULIDO ORDER TO SHOW CAUSE - FAILURE
Peter G. Macaluso TO PAY FEES
4-9-21 [[38](#)]

Final 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 \$78.00 installment when due on April 5, 2021. While the delinquent installment was paid on April 16, 2021, the fact remains that 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 order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

April 27, 2021 at 1:00 p.m.

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2. [21-20409](#)-B-13 SHERMAN GRAY ORDER TO SHOW CAUSE - FAILURE
Thru #3 Pro Se TO PAY FEES
4-9-21 [[46](#)]

Final Ruling

The court's 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 \$78.00 due April 5, 2021. The court's docket reflects that the default has not been cured.

Even if the default is cured by the date of the hearing on this matter, the case is nonetheless dismissed for reasons stated at Item #3, RDG-2.

The order to show cause is ORDERED SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

3. [21-20409](#)-B-13 SHERMAN GRAY MOTION TO DISMISS CASE
RDG-2 Pro Se 4-13-21 [[50](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to conditionally grant the motion to dismiss case and **continue the matter to May 4, 2021, at 1:00 p.m.**

First, payments are not current under the plan. As of April 6, 2021, plan payments are delinquent in the sum of \$500.00. 11 U.S.C. § 1307(c)(4).

Second, Debtor failed to appear at the meeting of creditors held March 17, 2021, and the continued meeting of creditors held April 14, 2021. This is cause to dismiss the case pursuant to 11 U.S.C. § 1307(c).

Third, Debtor has provided no pending plan or motion to confirm plan. Prior objections to confirmation were filed by creditor Breckenridge Property Fund 2016, LLC and the Chapter 13 Trustee, the former objection of which was sustained and the latter of which was overruled as moot. Debtor's failure to perform is unreasonable delay that is prejudicial to creditors since they are delayed in receiving plan payments. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted.

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, April 30, 2021, 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 May 4, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on May 4, 2021, at 1:00 p.m.

The court will issue an order.

4. [21-20730](#)-B-13 JUAN MUNANTE
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-5-21 [[37](#)]

Final Ruling

The court's 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 \$16.00 due March 31, 2021. The court's docket reflects that the default has not been cured.

The order to show cause is ORDERED SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

5. [17-21547](#)-B-13 DAVID JARRETT
[RDG-3](#) Harry D. Roth

MOTION TO DISMISS CASE
4-13-21 [[101](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to deny the motion to dismiss case.

The Chapter 13 Trustee moves for dismissal of the case on grounds that the Debtor is delinquent under the plan in the sum of \$121,786.04. The last payment was received March 19, 2021. 11 U.S.C. § 1307(c)(6). The delinquency stems from the plan confirmed on December 14, 2020, which calls for a lump sum payment in month 45 (December 2020) of \$130,184.00 or the amount necessary to pay the plan in full at 100% plus interest at the federal judgment rate of 0.91%. The amount needed to complete this plan is \$121,786.04.

Debtor filed a response stating that he has cured the delinquency and provides as an exhibit a copy of the cashier's check in the sum of \$121,786.04. Debtor states that he was unable to make the lump sum payment due to delay in the administration of the probate estate from which these funds came from. Debtor states that the delay in the probate estate was due to the delay in administration of another estate not under Debtor's control and generally by the COVID-19 pandemic.

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

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

6. [18-25872](#)-B-13 TAMMY WILLIAMS
[RDG-4](#) Eric J. Gravel

MOTION TO DISMISS CASE
4-13-21 [[59](#)]

Final Ruling

The Chapter 13 Trustee has filed a motion to dismiss its pending motion, and it is consistent with the Debtor's opposition filed to the motion. The motion is therefore dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041. The case will proceed in this court.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to conditionally grant the motion to dismiss case and **continue the matter to May 4, 2021, at 1:00 p.m.**

First, payments are not current under the plan. As of April 6, 2021, plan payments are delinquent in the sum of \$400.00. The last payment was received on February 26, 2021. 11 U.S.C. § 1307(c)(4).

Second, Debtor has provided no pending plan or motion to confirm plan. An objection to confirmation was heard and sustained in November 2020, and a motion to confirm first amended plan was heard and denied in March 2021. Debtor has failed to file, set, and serve an amended plan to date. Debtor's failure to perform is unreasonable delay that is prejudicial to creditors since they are delayed in receiving plan payments. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is conditionally granted.

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, April 30, 2021, 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 May 4, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on May 4, 2021, at 1:00 p.m.

The court will issue an order.