

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein
Chief Bankruptcy Judge
Sacramento, California

June 24, 2015 at 10:00 A.M.

1. [15-21802](#)-C-13 CHARLES WILLIAMS ORDER TO SHOW CAUSE - FAILURE
Mikalah Liviakis TO PAY FEES
4-13-15 [[16](#)]

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on April 8, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

2. [15-22702](#)-C-13 ERIC/CLEOFE PRICE MOTION TO DISMISS CASE
DPC-2 Mary Ellen Terranella 6-3-15 [[28](#)]

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f) (2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 3, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$1,110 delinquent in plan payments to the Trustee to date and the next scheduled payment of 1,110 is due on June 25, 2015. Debtor has paid \$0.00 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 27, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors did not appear at the First Meeting of Creditors held on May 21, 2015 or the continued meeting on June 18, 2015. Pursuant to 11 U.S.C. § 343, Debtors are required to appear at the meeting.
2. Debtors did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
3. Debtors have failed to file all pre-petition tax returns required for the four years preceding the filing of the petition.
4. Debtors are \$2,649 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,649 is due on June 25, 2015. Debtor has paid \$0.00 into the plan to date.

In their Response, Debtor simply state that Debtor's attorney has unsuccessfully attempted to get into contact with the Trustee to resolve the aforementioned issues.

Debtors' opposition does not address or resolve the Trustee's concerns. Accordingly, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

4. [15-21803](#)-C-13 PATRICIA SIMMONS
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-13-15 [[21](#)]

Also #5

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 8, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

5. [15-21803](#)-C-13 PATRICIA SIMMONS
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-13-15 [[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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 8, 2015). The court docket reflects that on May 18, 2015 the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f) (2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 3, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor's plan has not been served on all interested parties and no motion to confirm is pending. The petition was filed on March 17, 2015.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 27, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the First Meeting of Creditors held on May 21, 2015, or the continued meeting on June 18, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e) (2) (A); FRBP 4002(b) (3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (1).
3. Debtors have failed to file all pre-petition tax returns required for the four years preceding the filing of the petition.
4. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a) (1) (B) (iv).
5. Debtor is \$3,254.19 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,254.19 is due on June 25, 2015. Debtor has paid \$0.00 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

8. [15-20007](#)-C-13 BARBARA DAVIDSON
Richard Jare

CONTINUED ORDER TO SHOW CAUSE -
FAILURE TO PAY FEES
3-11-15 [[31](#)]

Final Ruling: No appearance at the September 10, 2014 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on March 6, 2015).

At the hearing on April 1, 2015, Debtor and counsel appeared, reported that Debtor is going back to work on April 6, 2015 and there was a disruption in her receiving unemployment benefits. She state that she was now able to bring the installments current and prosecute her plan.

Although the Chapter 13 Trustee has not withdrawn this Order to Show Cause, the docket reflects that Debtor paid the requisite fees on April 24, 2015. Further, the Trustee withdrew a motion to dismiss the case on May 8, 2015. Dckt. 44.

The Order to Show Cause is discharged and the case is not dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is dismissed.

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 discharged, no sanctions are ordered, and the case is not dismissed.

9. [15-23107](#)-C-13 JESSICA RAMSEY
Marc Caraska

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-22-15 [[16](#)]

Also #10

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on May 18, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is not dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 27, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor is \$425 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$425 is due on April 16, 2015. Debtor has paid \$0.00 into the plan to date.

Debtor's Opposition

Debtor states that she is current on all payments and provided her tax and

employment documents to the Trustee subsequent to the meeting of creditors.

Discussion

The Trustee's status report, Dckt. 28, says that he still does not have the employer payroll advices.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

11. [15-21209](#)-C-13 CESAR RAMAGOZA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-26-15 [[38](#)]

Thru #14

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 19, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

12. [15-21209](#)-C-13 CESAR RAMAGOZA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-25-15 [[21](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on March 20, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

13. [15-21209](#)-C-13 CESAR RAMAGOZA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-24-15 [[27](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on April 20, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 22, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the First Meeting of Creditors held on April 2, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
3. The Debtor failed to properly complete the Chapter 13 Plan.
4. Debtor is \$200 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$200 is due on May 25, 2015. Debtor has paid \$0.00 into the plan to date.
5. It appears that Debtor cannot make the plan payments as Debtor's monthly projected disposable income reflects a

negative \$534.24.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

15. [15-21311](#)-C-13 DEANDRA JACKSON
C. Anthony Hughes

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-26-15 [[31](#)]

Thru #17

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 21, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

16. [15-21311](#)-C-13 DEANDRA JACKSON
C. Anthony Hughes

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-27-15 [[23](#)]

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on April 21, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f) (2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 5, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$348 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$348 is due on June 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. The case was filed on February 20, 2015, and Debtor has yet to confirm a plan. The Trustee's Objection to Confirmation was sustained on May 5, 2015, and Debtor has filed to amend the plan.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

No Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f) (2) (iii).

Local Rule 9014-1(f) (2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 18, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2). 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.

The court's decision is to ~~xxxxxxxxxxxx~~ the Motion to Confirm.

Prior Hearing

At the hearing on April 1, 2015, the court continued the matter and set a briefing schedule stating that opposition shall be filed and served on or before April 21, 2015, and reply, if any, filed and served on or before April 28, 2015.

Summary of Motion to Dismiss

The Chapter 13 Trustee seeks dismissal of Debtors' case for unreasonable delay that is prejudicial to creditors based on the following:

1. Debtors are \$4,070 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,655.00 is due on March 25,

2015. Debtor has paid \$895.00 into the plan to date.

2. Trustee's Objection to Confirmation (DPC-1) was heard and sustained by the Court on January 27, 2015. No subsequent amended plan or Motion to Confirm have been filed.

Summary of Debtors' Opposition

Debtors state that they will become current on plan payments by May 5, 2015 and that their delinquency was due to an unanticipated tax lien filed by the IRS.

Summary of Trustee's Reply

The Trustee seeks dismissal of the case based on the following:

1. The plan payments listed in the amended plan (dckt. 58) conflict with those listed in the original plan.
2. Debtors treatment of creditor IRS is not consistent with 11 U.S.C. § 1325(a) (5) (A).
3. Debtor did not file a declaration.
4. Debtor did not provide evidence of a mortgage modification application.
5. Debtors' motion to confirm their first amended plan was denied on May 5, 2015, and no subsequent amended motion to confirm has been filed.

Discussion

As the Trustee's concerns highlight, cause exists to dismiss this case.

On June 19, 2015, Debtor filed a Second Amended Plan and Motion to Confirm. Dckts. 97 and 95. The basic terms of the Second Amended Plan are:

- A. Debtor has paid \$2,560.00 into the plan through May 27, 2015.
- B. Commencing June 25, 2015 and continuing through the remaining months of the plan the plan payment shall be \$595.00 a month.
- C. The Internal Revenue Service secured claim in the amount of \$30,000.00 is not provided for in the Plan shall not be discharged.
- D. The Internal Revenue Service is provided a Class 2 secured claim in the amount of \$7,852.86 shall be paid \$141.28 a month through the Plan.
- E. The California Franchise Tax Board Class 5 priority claim shall be paid \$189.10 a month through the plan. FN.1.

FN.1. Proof of Claim No. 7 states a claim by the Franchise Tax Board in the

amount of \$593.33. The priority amount of this claim is stated to be \$497.34 and the general unsecured portion is \$41.99.

F. For Class 2, the Plan provides for \$0.00 to be paid Citibank, N.A. for its claim secured by Debtor's primary residence. The \$26,507.19 claim to be valued at \$0.00 pursuant to 11 U.S.C. § 506(a).

G. For Class 4, a claim of "Green Tree Loan Servicing" secured by Debtor's primary residence is to be paid directly by Debtor in the amount of \$834.77. FN.2.

FN.2. The plan provides inconsistent treatment for claims secured by the Debtor's residence. On the one hand, the property and claims are provided for in the plan, with Debtor wanting to have Citibank, N.A.'s claim reduced to \$0.00. On the other hand, Debtor also wants to treat the primary residence property outside of the plan by paying Green Tree Servicing, LLC, which does not purport to be a creditor in this case. Proof of Claim No. 2 has been filed by Bank of New York Mellon, Trustee, for a \$199,171.99 claim which is secured by Debtor's primary residence. Proof of Claim No. 2 was filed by Green Tree Servicing, LLC as the agent of the Bank, which clearly names Bank of New York Mellon, Trustee as the creditor. Proof of Claim No. 2 lists the pre-petition arrearage to be \$5,197.38.

1. On June 3, 2015, Bank of New York Mellon, Trustee, filed a Notice of Mortgage Payment Change, stating that beginning July 1, 2015, the mortgage payment is \$834.77.

Having Debtor make payments outside of the Plan, while providing for claims secured by the same property through the Plan, Debtor creates a situation where completion of the Plan, and all Class 4 payments, is not easily documented.

The motion is **XXXXXXXXXXXXXXXXXXXXXX**.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is **XXXXXXXXXXXXXXXXXXXXXX**.

19. [15-23117](#)-C-13 THELMA EAGER
Dale Orthner

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-22-15 [[16](#)]

Also #20

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on May 18, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 27, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors did not appear at the First Meeting of Creditors held on May 21, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
2. Debtors did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e) (2) (A); FRBP 4002(b) (3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (1).
3. Debtors have failed to pay one or more installment(s) of filing fees.
4. Debtors are \$65 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$65 is due on June 25, 2015. Debtor has paid \$0.00 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

21. [15-23317](#)-C-13 ROBERT GUERRA
Michael Hayes

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-28-15 [[23](#)]

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on May 26, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

22. [15-22023](#)-C-13 JEFF NELSON AND LURDES
DPC-2 ROSALES
Julius Engel

MOTION TO DISMISS CASE
5-21-15 [[24](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

Scott Hughes

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 19, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$19,485.03 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,365.77 is due on May 25, 2015. Debtor has paid \$131,204.50 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 21, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. After the court sustained objections to confirmation on February 24, 2015, the Debtor failed to file an amended plan.

The docket reflects that the Debtor has not filed an amended plan or a response to the Trustee's concern. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

25. [15-23632](#)-C-13 ANDREW KNIERIEM
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-5-15 [[21](#)]

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on June 1, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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 sustained, no sanctions are ordered, and the case is dismissed.

26. [15-21233](#)-C-13 RONNETTE ROGERS-RUNNINGS ORDER TO SHOW CAUSE - FAILURE
Mikalah Liviakis TO PAY FEES
3-26-15 [[17](#)]

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 no opposition is offered at the hearing, the court will take up the merits of the motion.

Below is the court's tentative ruling.

The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on March 23, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

27. [11-36037](#)-C-13 ILMARS REINBACHS AND
DPC-1 MARIA ESPINOSA
James Brunello

MOTION TO DISMISS CASE
5-11-15 [[87](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 15, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$2,650 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,650 is due on May 25, 2015. Debtor has paid \$0 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 15, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e) (2) (A); FRBP 4002(b) (3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (1).
2. After the court sustained the Trustee's objection to confirmation on April 14, 2015, the Debtor failed to file an amended plan.

The docket reflects that the Trustee's concerns have not been resolved, thus cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss
is granted and the case is dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 15, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$98,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,920 is due on May 25, 2015. Debtor has paid \$78,400 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

31. [15-23243](#)-C-13 JOSEPH/CHERYL DIFEDE
DPC-1 Seth Hanson

MOTION TO DISMISS CASE
6-5-15 [[15](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

32. [12-40445](#)-C-13 BENANCIO DELOSSANTOS
DPC-5 Thomas

MOTION TO DISMISS CASE
5-20-15 [[40](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f) (2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 3, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$4,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$4000 is due on June 25, 2015. Debtor has paid \$7,800 into the plan to date.
2. The court denied Debtor's motion to confirm on May 5, 2015, and Debtor has filed to file an amended plan. Debtor has filed a total of four plans, three of which have been amended plans. Debtor filed his petition on November 18, 2014.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

34. [14-32148](#)-C-13 DEVIN/JESSICA SETH
DPC-2 Bruce Dwiggin
JOINT DEBTOR DISMISSED:
04/15/2015

MOTION TO DISMISS CASE
4-15-15 [[32](#)]

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 15, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 denied and the case is not dismissed.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$6,015 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,005 is due on June 25, 2015. Debtor has paid \$0 into the plan to date.
2. The court denied Debtor's motion to confirm on March 24, 2015, and Debtor has filed to file an amended plan.

On June 8, 2015, the Trustee withdrew this Motion to Dismiss. Dckt. 58.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is denied without prejudice and the case is not dismissed.

35. [15-21748](#)-C-13 DOUGLAS/DIEM WOODWARD
Scott Sagaria

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-19-15 [[18](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$310.00 due on March 5, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

36. [13-32449](#)-C-13 ARNULFO CHAVEZ AND MARIA MOTION TO DISMISS CASE
DPC-1 ALMANZA 5-21-15 [[64](#)]
Joseph Canning

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$310.00 due on March 5, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f) (1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 22, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the First Meeting of Creditors held on April 2, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e) (2) (A); FRBP 4002(b) (3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (1).
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a) (1) (B) (iv).
4. Debtor is \$798.68 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$399.34 is due on May 25, 2015. Debtor has paid \$0.00 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

38. [15-20851](#)-C-13 ROBIN SMITH
DPC-2 Brian Turner

MOTION TO DISMISS CASE
5-15-15 [[30](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$310.00 due on March 5, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

39. [15-20951](#)-C-13 GEORGE/ELSA MASON
DPC-2 Scott Sagaria

MOTION TO DISMISS CASE
5-15-15 [[34](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$310.00 due on March 5, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

Final Ruling: No appearance at the June, 24 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 5, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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). 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 court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. After the court sustained the Trustee's objection to confirmation on March 24, 2015, the Debtor failed to file an amended plan.
2. Debtor is \$2,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,000 is due on May 25, 2015. Debtor has paid \$14,100 into the plan to date.

The docket reflects that Debtor has failed to address the Trustee's concerns. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

41. [15-21555](#)-C-13 ANDREW/LORENNNA HOWELL MOTION TO DISMISS CASE
DPC-2 C. Anthony Hughes 6-5-15 [[23](#)]

Final Ruling: No appearance at the July 24, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$310.00 due on March 5, 2015). The court docket reflects that the Debtor has paid the fee upon which the order to show cause is based.

The Order to Show Cause is discharged and the case is dismissed. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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 discharged, no sanctions are ordered, and the case is not dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 2, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtors' case based on the following:

1. Debtors are \$13,936 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$5,606 is due on June 25, 2015. Debtor has paid \$143,032 into the plan to date

Debtors' opposition states that Debtors are in the process of modifying their plan and that the plan will be on filed with the court at least 7 days prior to the June 24, 2015 hearing.

As of June 19, 2015, the docket does not reflect that Debtors have filed an amended plan.

Because Debtors have not resolved the Trustee's concerns, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 20, 2015. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$18,990 to date with the last payment received on March 10, 2015. Trustee shows a total of \$22,210 is due, thus Debtor is delinquent \$3,220 in plan payments. Prior to the hearing on this matter, a payment of \$1,610 will come due. As a result, Debtor will need to pay \$4,830 in order to bring the plan current as of the date of this hearing.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 5, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c). The case was filed on February 26, 2015, and Debtor has yet to confirm a plan. Trustee's objection to confirmation was heard and sustained on May 5, 2015, and Debtor has not amended the plan or set the amended plan for confirmation hearing.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 11, 2015. By the court's calculation, 44 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtors' case on the basis that Debtors are in material default under the terms of the confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtors have paid a total of \$42,221.49, with the last payment received on April 27, 2015. Trustee shows a total of \$54,565 due, thus Debtors are delinquent \$12,343.51 in plan payments. Prior to the hearing, another payment of \$5,470 will become due. Debtors will need to pay \$17,813.51 to be current by the date of this hearing.

DEBTORS' RESPONSE

Debtors acknowledge that they have not made a plan payment since April 27, 2015, and urge the court to dismiss the instant Motion to Dismiss if the Debtors are current as of the date of this hearing. Debtors state that they have made two payments since receipt of Trustee's motion, and that on June 25, 2015, they will make the plan payment, which will bring them current on the plan as of the date of the hearing.

DISCUSSION

Debtors provide that they have made two payments and will be current by the date of the hearing, however have provided no evidence upon which the court may rely to substantiate these claims.

Equally significant, Debtors offer no explanation as to how they have an "extra" \$10,940.00 to make these two payment and the regular monthly payment of \$5,470.00 for the current month. Debtors have stated under penalty of perjury that they have only \$5,470.98 a month in projected disposable income with which to fund a plan. Amended Schedules I and J, Dckt. 39, pp. 5-11.

There is no shown good faith basis by which Debtors could have \$16,410.00 of monies in which to fund a plan in one month, and not have \$16,410.00 a month to fund each month throughout the plan. Based on Debtors' current conduct, the prior financial information provided under penalty of perjury was not accurate.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

46. [14-28261](#)-C-13 JAVIER CAMPOS LOPEZ AND
DPC-2 IRMA CAMPOS
Peter Cianchetta

MOTION TO DISMISS CASE
5-27-15 [[105](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

47. [12-39863](#)-C-13 ROBERT/KAMBRIA LOBO
DPC-5 Douglas Jacobs

MOTION TO DISMISS CASE
5-21-15 [[102](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

48. [13-21363](#)-C-13 ROBERT/JUNE MILLER
DPC-2 Timothy Walsh

MOTION TO DISMISS CASE
5-21-15 [[45](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 19, 2015. By the court's calculation, 36 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$10,500 to date with the last payment received on April 22, 2015. Trustee shows a total of \$11,200 is due, thus Debtor is delinquent \$700 in plan payments. Prior to the hearing on this matter, a payment of \$350 will come due. As a result, Debtor will need to pay \$1,050 in order to bring the plan current as of the date of this hearing.

DEBTOR'S RESPONSE

Debtor opposes Trustee's Motion to Dismiss, stating that he will be current on plan payments on or before the date of the hearing.

DISCUSSION

The Debtor's statement that he "will be current" is not evidence that he actually cured the delinquency.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 21, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to continue the Motion to Dismiss to July 21, 2015 at 2:00 p.m.

The Chapter 13 Trustee seeks dismissal of Debtor's pursuant to Federal Rule of Bankruptcy Procedure 1016. Trustee provides that a suggestion of death was filed on April 2, 2015. A motion to appoint a successor representative required by Federal Rule of Civil Procedure 25 has not been filed and set for hearing.

DEBTOR'S OPPOSITION

Debtor's personal representative, Marc Stephen Allen, Debtor's son, opposes Trustee's motion to dismiss, stating that an application to substitute deceased party will be filed with the court pursuant to Federal Rule of Bankruptcy Procedure 7025. Moreover, Debtor's representative provides that he wishes to convert the case to a chapter 7 case. Debtor's representative states in his declaration that he was appointed administrator of his father's estate on March 30, 2015.

DISCUSSION

Federal Rule of Bankruptcy Procedure 1016 provides that, in the event the Debtor passes away, in the case pending under chapter 11, chapter 12, or chapter 13 "the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and

be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred." Consideration of dismissal and its alternatives requires notice and opportunity for a hearing. *Hawkins v. Eads*, 135 B.R. 380, 383 (Bankr. E.D. Cal. 1991). As a result, a party must take action when a debtor in chapter 13 dies. *Id.*

Federal Rule of Bankruptcy Procedure 7025 provides "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representation. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed." *Hawkins v. Eads*, 135 B.R. at 384.

The application of Rule 25 and Rule 7025 is discussed in COLLIER ON BANKRUPTCY, 16TH EDITION, §7025.02, which states [emphasis added],

Subdivision (a) of Rule 25 of the Federal Rules of Civil Procedure deals with the situation of death of one of the parties. If a party dies and the claim is not extinguished, then the court may order substitution. **A motion for substitution may be made by a party to the action or by the successors or representatives of the deceased party.** There is no time limitation for making the motion for substitution originally. Such time limitation is keyed into the period following the time when the fact of death is suggested on the record. In other words, procedurally, **a statement of the fact of death is to be served on the parties in accordance with Bankruptcy Rule 7004 and upon nonparties as provided in Bankruptcy Rule 7005** and suggested on the record. The suggestion of death may be filed only by a party or the representative of such a party. The suggestion of death should substantially conform to Form 30, contained in the Appendix of Forms to the Federal Rules of Civil Procedure.

The motion for substitution must be made not later than 90 days following the service of the suggestion of death. Until the suggestion is served and filed, the 90 day period does not begin to run. In the absence of making the motion for substitution within that 90 day period, paragraph (1) of subdivision (a) requires the action to be dismissed as to the deceased party. However, the 90 day period is subject to enlargement by the court pursuant to the provisions of Bankruptcy Rule 9006(b). Bankruptcy Rule 9006(b) does not incorporate by reference Civil Rule 6(b) but rather speaks in terms of the bankruptcy rules and the bankruptcy case context. Since Rule 7025 is not one of the rules which is excepted from the provisions of Rule 9006(b), the court has discretion to enlarge the time which is set forth in Rule 25(a)(1) and which is incorporated in adversary proceedings by Bankruptcy Rule 7025. Under the terms of Rule 9006(b), a motion made after the 90 day period must be denied unless the movant can show that the failure to move within that time was the result of excusable neglect. 5 The suggestion of the fact of death, while it begins the 90 day period running, is not a prerequisite to the filing of a motion for substitution. The motion for substitution can be made by a party or by a successor at any time before the statement of

fact of death is suggested on the record. **However, the court may not act upon the motion until a suggestion of death is actually served and filed.**

The motion for substitution together with notice of the hearing is to be served on the parties in accordance with Bankruptcy Rule 7005 and upon persons not parties in accordance with Bankruptcy Rule 7004...

See also, Hawkins v. Eads, supra. While the death of a debtor in a Chapter 13 case does not automatically abate due to the death of a debtor, the court must make a determination of whether "[f]urther administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred." Fed. R. Bank. P. 1016. The court cannot make this adjudication until it has a substituted real party in interest for the deceased debtor.

Here, the docket reflects that a statement of date was filed on April 2, 2015. A motion for substitution must be filed within 90 days of making such statement. As of the date of this hearing, 83 days will have passed. While the 90 day period is subject to enlargement by this court, the court has not done so here, nor has Debtor's counsel or son requested that the court do so. The court will continue the matter until the full 90 days have passed under Federal Rule of Bankruptcy Procedure 9006(b), which in this case is July 1, 2015. If the deceased Debtor's son has not filed a Motion for Substitution by that date, the case will be dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is continued to July 21, 2015 at 2:00 p.m.

51. [15-22465](#)-C-13 DARWIN PRICE
DPC-2 Eric Gravel

MOTION TO DISMISS CASE
6-3-15 [[29](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

52. [12-28167](#)-C-13 JOSE/ANGELICA DIAZ
DPC-1 Thomas Gillis

MOTION TO DISMISS CASE
5-20-15 [[44](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

53. [15-22667](#)-C-13 VICTOR/CORNELIA UBANDO
DPC-2

MOTION TO DISMISS CASE
6-3-15 [[47](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

54. [15-21269](#)-C-13 BOUNTHEU THIENPHETH
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-26-15 [[62](#)]

Thru #57

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 Order to Show Cause was served by the Clerk of the Court on Bountheu Thienpheth ("Debtor"), Trustee, and other parties in interest on May 26, 2015. The court computes that 29 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 20, 2015).

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

The court's docket 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 on May 20, 2015.

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 sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

55. [15-21269](#)-C-13 BOUNTHEU THIENPHETH
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-26-15 [[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 Order to Show Cause was served by the Clerk of the Court on Bountheu Thienpheth ("Debtor"), Trustee, and other parties in interest on March 26, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on March 23, 2015).

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

The court's docket 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: \$79.00 due on March 23, 2015.

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 sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

56. [15-21269](#)-C-13 BOUNTHEU THIENPHETH
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-27-15 [[43](#)]

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 Order to Show Cause was served by the Clerk of the Court on Bountheu Thienpheth ("Debtor"), Trustee, and other parties in interest on April 27, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on March 23, 2015).

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

The court's docket 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 on April 20, 2015.

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 sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on May 20, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors held on April 23, 2015. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325. The meeting has been continued to July 16, 2015.
2. Debtor did not provide Trustee with a tax transcript or a copy of the Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required or a written statement that no such documentation exists, see 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required 7 days before the date set for the first meeting of creditors, 11 U.S.C. § 521(e)(2)(A)(I).
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor has not complied with 11 U.S.C. § 1325(a)(2), and has not paid filing fees.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

58. [15-20970](#)-C-13 JESSE LOVEDAY
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-15-15 [[20](#)]

Also #59

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Jesse William Loveday ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on April 15, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$76.00 due on April 10, 2015).

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

The court's docket reflects that the default in payment which is the subject of the Order to Show Cause has been cured. .

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 discharged, no sanctions ordered, and the case shall proceed in this court.

59. [15-20970](#)-C-13 JESSE LOVEDAY
DPC-2 Richard Jare

MOTION TO DISMISS CASE
5-22-15 [[26](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 22, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to deny the Motion to Dismiss.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c). Debtor's motion to confirm plan was heard and denied at the hearing on February 24, 2015. To date, Debtor has failed to file an amended plan or set it for confirmation.

DEBTOR'S RESPONSE

Debtor provides that she has filed an amended plan and motion to confirm on June 8, 2015. The hearing for the motion is set for hearing on July 21, 2015. Debtor provides that the delay in the case results from Debtor having to gather additional documents for evidence.

DISCUSSION

The court docket reflects that Debtor has filed an amended plan and set the amended plan for confirmation on July 21, 2015.

The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by the Debtors. Dckt. 343 and 345. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity) and the Declaration appears to provide testimony as to facts to support confirmation based upon her personal knowledge (Fed.

R. Evid. 601, 602).

The Debtor having acted to modify the plan and doing so in a manner consistent with the Federal Rules of Bankruptcy Procedure and Federal Rules of Evidence, the Motion is denied without prejudice.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

61. [15-20871](#)-C-13 SHARMAGNE WINBUSH
Marc Carpenter

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-13-15 [[26](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Sharmagne L. Winbush ("Debtor"), Trustee, and other parties in interest on April 13, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$76.00 due on April 6, 2015).

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

The court's docket reflects that the default in payment which is the subject of the Order to Show Cause has been cured.

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 discharged, no sanctions ordered, and the case shall proceed in this court.

62. [15-20972](#)-C-13 CASSANDRA HUAPAYA
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-15-15 [[88](#)]

Also #63

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Cassandra Huapaya ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on April 15, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on April 10, 2015).

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

The court's docket reflects that the default in payment which is the subject of the Order to Show Cause has been cured.

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 discharged, no sanctions ordered, and the case shall proceed in this court.

63. [15-20972](#)-C-13 CASSANDRA HUAPAYA
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-15-15 [[98](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Cassandra Huapaya ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on May 15, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on May 11, 2015).

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

The court's docket reflects that the default in payment which is the subject of the Order to Show Cause has been cured.

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 discharged, no sanctions ordered, and the case shall proceed in this court.

64. [14-31875](#)-C-13 RHONDA LOFTON
DPC-1 Richard Jare

MOTION TO DISMISS CASE
5-19-15 [[23](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

65. [15-20380](#)-C-13 MATTHEW/ERIN O'BRIEN
Scott Shumaker

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-26-15 [[48](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Matthew Robert O'Brien and Erin Dawn O'Brien ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on May 26, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on May 20, 2015).

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

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has/has not been cured.

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 discharged, no sanctions ordered, and the case shall proceed in this court.

66. [12-34481](#)-C-13 SOPHIA GONZALEZ
DPC-2 Mohammad Mokarram

MOTION TO DISMISS CASE
5-20-15 [[42](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having 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 was dismissed without prejudice, and the matter is removed from the calendar.**

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 20, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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). 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 continued to August 11, 2015 at 2:00 p.m.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors. Debtor's motion to confirm plan was heard and denied on March 24, 2015. No subsequent amended plan or motion to confirm plan have been filed.

In a supplemental pleading, Trustee requests a continuance for 30 days to allow Debtors to obtain new counsel, as Debtors' former counsel, James Bianchi, has passed away.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is continued to **August 11, 2015, at 2:00 p.m.**

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 11, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$73,580 to date with the last payment received on December 29, 2015. Trustee shows a total of \$86,978 is due, thus Debtor is delinquent \$13,398 in plan payments. Prior to the hearing on this matter, a payment of \$2,682 will come due. As a result, Debtor will need to pay \$16,080 in order to bring the plan current as of the date of this hearing.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 22, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors' plan was filed on September 30, 2014 and the motion to confirm were stipulated as non-confirmable on February 19, 2015. To date, Debtors have not filed an amended plan or set it for confirmation.
2. Debtors are \$53 delinquent in plan payments to the Trustee and the next scheduled payment of \$83 is due on May 25, 2015. Debtors have paid \$1,275 into the plan to date.

DEBTORS' RESPONSE

Debtors provide that (1.) an amended plan has been prepared and sent to Debtors for signature; and (2.) Debtors will be current before the hearing on this motion.

DISCUSSION

Debtors provide that they will be current on delinquent plan payments by the date of the hearing, however have provided no evidence of actually

curing the delinquency. Moreover, the court records reflects that no amended plan or motion to confirm plan have been filed on the docket.

This bankruptcy case was filed in December 2013. Now, eighteen months later Debtors have been unable to confirm a Chapter 13 Plan. No amended plan has been filed and no motion to confirmed served, notwithstanding the Motion to Dismiss having been filed on May 22, 2015.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 19, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$27,983 to date with the last payment received on April 10, 2015. Trustee shows a total of \$32,700 is due, thus Debtor is delinquent \$4,717 in plan payments. Prior to the hearing on this matter, a payment of \$2,725 will come due. As a result, Debtor will need to pay \$7,442 in order to bring the plan current as of the date of this hearing.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 29, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$1,600 to date with the last payment received on May 22, 2015. Trustee shows a total of \$2,400 is due, thus Debtor is delinquent \$800 in plan payments. As a result, Debtor will need to pay \$800 in order to bring the plan current as of the date of this hearing.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

No Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 19, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to ~~xxxxxxxxxxxxxxxx~~ the Motion to Dismiss.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$60,532 to date with the last payment received on March 20, 2015. Trustee shows a total of \$64,848 is due, thus Debtor is delinquent \$4,316 in plan payments. Prior to the hearing on this matter, a payment of \$2,316 will come due. As a result, Debtor will need to pay \$6,632 in order to bring the plan current as of the date of this hearing.

DEBTOR'S RESPONSE

Debtor provides that he has filed a modified plan and set it for hearing. Debtor states that he is modifying the plan because a secured vehicle accounted for in the plan was totaled in a car accident. Debtor's modified plan provides for the totaled vehicle as a surrender in Class 3 of the modified plan. Debtor is current on the terms of the modified plan.

DISCUSSION

The docket reflects that on June 10, 2015, Debtor filed a modified plan, Dckt. 141, and motion to confirm modified plan, Dckt. 130, with confirmation hearing set for July 28, 2015. The modified plan shows that Debtor has moved the secured claim of GM Financial into Class 3 of the plan,

with an intent to surrender the collateral. Under the terms of the modified plan, Debtor will be current on plan payments.

The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by the Debtors. Dckt. 130 and 132. The Motion appears not to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity). Rather, the Motion merely states as the grounds for relief,

"The debtor believes that the First Modified Chapter 13 Plan satisfies the requirements of 11 U.S.C. Sections 1322 and 1325; that it will be acceptable to the trustee; that it will not be objectionable to creditors or their interests, and that it furthers the goals of the bankruptcy statutes."

Dckt. 130. This fails to plead grounds with particularity upon which relief may be granted pursuant to 11 U.S.C. § 1329, 1325, and 1322.

Cause [does/not] exist to dismiss this case. The motion is **xxxxxx**.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is **xxxxxxxxxx**.

73. [13-33586](#)-C-13 JOSE/ELSIE SIMPAO
DPC-1 W. Steven Shumway

MOTION TO DISMISS CASE
5-21-15 [[27](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on August 21, 2014. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that on the basis that Debtors are causing unreasonable delay that is prejudicial to creditors, 11 U.S.C. § 1307(c). Debtors are \$210 delinquent in plan payments to Trustee to date and the next scheduled payment is due on June 25, 2015. Debtors have paid \$0.00 into the plan to date.

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

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 Dismiss the Chapter 13 case filed by the

Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 11, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$12,330 to date with the last payment received on March 30, 2015. Trustee shows a total of \$19,400 is due, thus Debtor is delinquent \$7,070 in plan payments. Prior to the hearing on this matter, a payment of \$2,425 will come due. As a result, Debtor will need to pay \$9,495 in order to bring the plan current as of the date of this hearing.

DEBTOR'S RESPONSE

Debtor's counsel responds, acknowledging that Debtor is not current on plan payments, and requests that the court deny the motion to dismiss if Debtor is current on plan payments by the date of the hearing.

DISCUSSION

Debtor's counsel has provided no evidence upon which the court may rely to show that Debtor has cured the delinquency in plan payments. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 5, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c). Debtor's motion to confirm was heard and denied on May 5, 2015. Dckt. 47. Debtor has not filed a subsequent amended plan or motion to confirm plan.

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

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 21, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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). 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 Chapter 13 Trustee seeks dismissal of Debtor's case. The Trustee seeks to dismiss the case on the basis that the Debtor is in material default under the terms of the confirmed Plan, the Plan now requiring 396 months to complete. This is in excess of the 60 month statutory maximum imposed by 11 U.S.C. §1322(d). The Debtor's confirmed plan provides for the claim of the Internal Revenue Service in Class 2.A. for \$101,400. The Internal Revenue Service has filed a claim which includes \$101,400 as secured. The Debtor includes in the additional provisions that \$16,470 will be paid through the plan while an adversary complaint is pending. It further states if the adversary is resolved adverse to the Debtor, Debtor will either amend the plan or dismiss the case. A judgment was issued on February 9, 2015 in the adversary case no. 13-32690, Dckt. 35, providing that the obligation of Plaintiff to the United States are a previously stated by the IRS. Debtor has taken no action to either amend his plan or dismiss his case since the adversary judgment was issued.

The Internal Revenue Service has filed a motion of non-opposition to the Chapter 13 Trustee's motion to dismiss the case, as the current plan does not provide for the IRS claim.

Debtor offers no opposition. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 19, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$6,297 to date with the last payment received on February 23, 2015. Trustee shows a total of \$6,822.40 is due, thus Debtor is delinquent \$524.80 in plan payments. Prior to the hearing on this matter, a payment of \$262.40 will come due. As a result, Debtor will need to pay \$787.20 in order to bring the plan current as of the date of this hearing.

DEBTORS' RESPONSE

Debtors respond, stating that the delinquency in payments in their case arises from an employment change for Debtor Michael Levitt. Debtors state that all delinquent payments will be paid on or about June 16, 2015, before the hearing on this motion.

DISCUSSION

Although Debtors intend to be current by the date of the hearing on this case, Debtors have provided no evidence upon which the court may rely to show that Debtors have cured the delinquency in plan payments. Cause exists to dismiss this case. The motion is granted and the case is

dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

No Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 21, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

**The court's decision is to ~~xxxxxx~~ the Motion to Dismiss and
~~xxxxxxxxxxxxxx~~.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c). Debtor's motion to confirm was heard and denied on November 25, 2014. Dckt. 42. Debtor has not filed a subsequent amended plan or motion to confirm plan.

DEBTOR'S RESPONSE

Debtor provides that she has been unable to file an amended plan due to the alleged amount of secured debt owed to the Internal Revenue Service. Debtor filed an amended tax return for the year 2008 earlier this year. Counsel and Debtor have been in touch with IRS representatives, but have not yet reached a consensus on the secured amount owed for 2008. The most recent amended claim filed by the IRS reduces the total amount owed, but not the secured portion. Unless this issue is resolved quickly, Debtor will be filing an Objection to Claim for the IRS claim prior to the hearing date of June 24, 2015. Debtor further states that an amended plan will be filed by

June 20, 2015.

DISCUSSION

The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by the Debtors. Dckt. 65 and 68. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity). However, the Declaration appears not to provide testimony as to facts to support confirmation based upon Debtor's personal knowledge (Fed. R. Evid. 601, 602). The purported "testimony" consists of the following conclusions by Debtor:

"7. Further:

-my plan complies with applicable law;

-any fees or charges required by the Court have been paid;

-the plan is proposed in good faith; represents my best effort to repay my debts, and is not proposed by any means forbidden by law;

-unsecured creditors will receive at least the amount that they would receive in a Chapter 7 liquidation.

-all secured creditors provided for have either accepted the plan, or I will surrender the property securing the claims, or the plan provides for creditors to be paid pursuant to 1325(a)(5)(B);

-I will be able to make the payments under the plan and comply with the plan;

-I have no domestic support obligation, and I have filed all applicable tax returns;..."

Declaration, Dckt. 68. While Debtor may have made such personal findings of fact and conclusions of law, Debtor fails to present evidence in support of the Motion from which the court may make the necessary findings and conclusions.

Cause [does not/exists] to dismiss this case. The motion is granted and the case is [not/dismissed].

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is xxxxxx and

the case is xxxxxx.

Final Ruling: No appearance at the June 24, 2015 hearing is required.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on May 22, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Upon review of the Motion and supporting pleadings, no opposition having been filed, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c).

1. Debtor is \$5,292 delinquent in plan payments to the Trustee to date, and the next scheduled payment of \$2,646 is due on May 25, 2015. Debtor has paid \$0 into the plan to date.
2. Trustee's objection to confirmation was heard and sustained on April 21, 2015. Debtor has not filed a subsequent amended plan or motion to confirm plan.

On June 9, 2015, Debtor filed her own motion to dismiss the Chapter 13 case. Dckt. 33. The Motion does not state any reason Debtor say wants to dismiss the case. In reviewing the court's files, the court notes that the Debtor has filed the following cases:

11-30525 Chapter 7 Case	Filed: April 28, 2011 Discharge: None Issued, § 727 Complaint Pending Dismissed: Pending
	Adv. 15-2128 Trustee asserts that Debtor was to turnover monies to the Trustee and has failed to so do.
14-27048 Chapter 13	Filed: July 7, 2014 Dismissed: December 3, 2014

	Confirmation of Plan denied due to multiple defects in prosecution of case and plan by Debtor.
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Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

81. [14-30098](#)-C-13 MARK/DEBRA HICKEY
DPC-2 Peter Macaluso

MOTION TO DISMISS CASE
5-19-15 [[65](#)]

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The Chapter 13 Trustee having filed a Notice of Withdrawal on June 18, 2015, Dckt. 73, no prejudice to the responding party appearing by the dismissal of the Motion, the court construing the Notice of Withdrawal as an *ex parte* motion to dismiss the motion to dismiss without prejudice, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(2) and Fed. R. Bankr. P. 9014 and 7041, the dismissal consistent with the opposition filed by the Debtors, the *ex parte* motion is granted, the Trustee's motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 Dismiss the Chapter 13 case filed by Trustee having been presented to the court, the Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 7041 and 9014, Dckt. 73, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Trustee's Motion to Dismiss the Chapter 13 case is dismissed without prejudice, and the bankruptcy case shall proceed.

82. [15-23298](#)-C-13 ANA HENRIQUEZ
Gary Saunders

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-7-15 [[13](#)]

DEBTOR DISMISSED: 05/11/2015

Final Ruling: No appearance at the June 24, 2015 hearing is required.

The case having previously been dismissed, the Motion is dismissed as moot.

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 Dismiss having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is dismissed as moot, the case having been dismissed.****

Tentative Ruling: The Motion to Dismiss 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).

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.

Below is the court's tentative ruling.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 11, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtors' case on the basis that Debtors are in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtors have paid a total of \$3,551 to date with the last payment received on December 30, 2015. Trustee shows a total of \$4,150 is due, thus Debtors are delinquent \$599 in plan payments. Prior to the hearing on this matter, a payment of \$150 will come due. As a result, Debtors will need to pay \$749 in order to bring the plan current as of the date of this hearing.

DEBTORS' RESPONSE

Debtors provide that on or before the date of the hearing, Debtors will be current on plan payments.

DISCUSSION

Although Debtors provide that they will be current on plan payments by the date of the hearing, they have provided no evidence upon which the court may rely to show that they have cured the delinquency. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by 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.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 10, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is causing unreasonable delay prejudicial to creditors, 11 U.S.C. § 1307(c). Trustee's objection to confirmation was heard and denied by the court and sustained on June 2, 2015, Dckt. 32. No subsequent amended plan or motion to confirm plan has been filed with the court.

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

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 Dismiss the Chapter 13 case filed by the

Chapter 13 Trustee 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 to Dismiss is granted and the case is dismissed.
