

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

June 28, 2016 at 1:00 p.m.

1. [16-22409](#)-B-13 MARK JOCOY
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-20-16 [[23](#)]

DEBTOR DISMISSED: 05/31/2016

Final Ruling: No appearance at the June 28, 2016, hearing is required. Case dismissed
May 31, 2016.

2. [12-27513](#)-B-13 GREGORY/DEBORAH VEATCH MOTION TO DISMISS CASE
JPJ-2 Peter G. Macaluso 6-14-16 [[51](#)]

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

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

First, the Debtors assert that they are current in plan payments and have paid a total of \$51,070.00.

Second, the Debtors have filed a response stating that they intend to file, set, and serve a modified plan that will presumably address the Trustee's concerns by ensuring that the modified plan does not exceed the commitment period of 60 months. Debtors' counsel requests additional time to file the modified plan because there are some difficulties contacting the Debtors.

Provided that the Debtors are current on plan payments, cause does not exist to dismiss this case. If the Debtors are current at the time of the hearing, the court will set a deadline for the Debtors to file, set, and serve a modified plan. The motion is denied without prejudice and the case is not dismissed.

The court will enter an appropriate minute order.

3. [14-25714](#)-B-13 GYORGY/ANGELA GUEVARRA MOTION TO DISMISS CASE
JPJ-1 Stephen N. Murphy 6-14-16 [[58](#)]

Final Ruling: No appearance at the June 28, 2016, hearing is required.

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

The court will enter an appropriate minute order.

4. [16-22254](#)-B-13 ROSE RODRIGUEZ
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-16-16 [[30](#)]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

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

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due May 11, 2016. The court's docket reflects that the default has not been cured.

The court will enter an appropriate minute order.

5. [14-26059](#)-B-13 FLORENTINO LOPEZ AND MOTION TO DISMISS CASE
JPJ-2 CECILIA VILLEGAS 6-14-16 [[37](#)]
Thomas O. Gillis

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

The court's decision is to not dismiss the case provided that the Debtors have submitted all remaining requested documents to the Trustee as stated in their response. These documents include copies of W-2 and 1099 forms for tax year 2015, bank statements for Yolo Credit Union from January 1, 2016, through March 31 2016, and Profit and Loss Statements for Villegas Trucking from January 1, 2016, through March 31, 2016.

Provided that the Debtors have submitted the remaining requested documents, cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed.

The court will enter an appropriate minute order.

6. [16-23371](#)-B-13 DONNA JACKSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-7-16 [[14](#)]

DISMISSED: 06/21/2016

Final Ruling: No appearance at the June 28, 2016, hearing is required. Case dismissed June 21, 2016, for failure to timely file documents.

7. [16-20672](#)-B-13 PHILLIP NAILS
JPJ-2 Peter G. Macaluso

MOTION TO DISMISS CASE
6-1-16 [[48](#)]

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

The court's decision is to not dismiss the case provided that the Debtor convert this case to one under Chapter 7 as stated in his motion by July 5, 2016. Otherwise, the Debtor's case shall be dismissed for delinquency in plan payments, failure to prosecute this case causing unreasonable delay that is prejudicial to creditors, and failure to amend documents as requested by the Chapter 13 Trustee at the § 341 meeting and as stated in the Trustee's objection to confirmation heard and sustained on April 12, 2016.

Provided that the Debtor converts his case by July 5, 2016, cause does not exist to dismiss this case. The motion is denied and the case is not dismissed.

The court will enter an appropriate minute order.

8. [16-22290](#)-B-13 JOSE PEREZ ORDER TO SHOW CAUSE - FAILURE
Thru #9 Pro Se TO PAY FEES
5-17-16 [[18](#)]

CONTINUED TO 8/02/16 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH THE OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON, DKT. 24, AND MOTION TO DISMISS CASE, DKT. 27.

Final Ruling: No appearance at the June 28, 2016, hearing is required.

9. [16-22290](#)-B-13 JOSE PEREZ MOTION TO DISMISS CASE
JPJ-2 Pro Se 5-25-16 [[27](#)]

CONTINUED TO 8/02/16 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH THE OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON DKT. 24.

Final Ruling: No appearance at the June 28, 2016, hearing is required.

10. [16-21715](#)-B-13 TILLA SIORDIA CONTINUED MOTION TO CONFIRM
EAS-1 Edward A. Smith PLAN
Thru #11 5-10-16 [[17](#)]

Tentative Ruling: The Motion to Confirm First Amended Chapter 13 Plan Dated May 10, 2016, has been set for hearing on the 42-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not confirm the first amended plan.

This matter was continued from June 21, 2016. Although the Trustee represented at the hearing that the Debtor has brought the delinquency current, the modified plan does not specify a cure of the post-petition arrearage owed to Wells Fargo Home Mortgage, listed in Class 1 of the previously confirmed plan and in the current plan, including a specific post-petition arrearage amount, interest rate, and monthly dividend. The plan cannot be effectively administered.

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

The court will enter an appropriate minute order.

11. [16-21715](#)-B-13 TILLA SIORDIA CONTINUED COUNTER MOTION TO
EAS-1 Edward A. Smith DISMISS CASE
6-8-16 [[25](#)]

Tentative Ruling: The motion will be conditionally denied.

Because the plan proposed by the Debtor is not confirmable, the Debtor will be given a further opportunity to confirm a plan. But, if the Debtor is unable to confirm a plan within a reasonable period of time, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If the Debtor has not confirmed a plan within 75 days, the case will be dismissed on the Trustee's ex parte application.

The court will enter an appropriate minute order.

12. [16-22557](#)-B-13 JAMES/PATRICIA FARRELL
JPJ-1 Mohammad M. Mokarram

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY JAN P.
JOHNSON AND/OR MOTION TO
DISMISS CASE
5-25-16 [[15](#)]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan and Conditional Motion to Dismiss Case was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). The Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to overrule the objection and deny the motion to dismiss provided that the Debtors have cured their delinquency.

This matter was continued from June 21, 2016, in order for the Debtors to cure their delinquency. The Trustee's original objection to confirmation was based on the Debtors' failure to appear at the first meeting of creditors. That issue is resolved since the Debtors appeared at the continued meeting of creditors held on June 16, 2016.

Provided that the Debtors have cured their delinquency, the objection will be overruled, the motion to dismiss denied, and the plan filed April 22, 2016, will be confirmed.

The court will enter an appropriate minute order.