

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

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

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: June 30, 2020

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

June 30, 2020 at 1:00 p.m.

1. [18-24402](#)-B-13 CORTNEY CAMPBELL MOTION TO DISMISS CASE
 [DPC-2](#) Mikalah R. Liviakis 6-1-20 [[87](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$5,445.00, which represents approximately 9 plan payments. An additional payment of \$605.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

The court will issue an order.

2. [19-21802](#)-B-13 JOSE PEREZ MOTION TO DISMISS CASE
[DPC-1](#) Mikalah R. Liviakis 6-1-20 [[64](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The court having confirmed that the Debtor is current on plan payments, cause does not exist to dismiss this case. The motion is denied and the case is not dismissed.

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

The court will issue an order.

3. [20-22003](#)-B-13 THOMAS RENOIS
David Foyil

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-14-20 [[36](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due May 11, 2020. The court's docket reflects that the default has not been cured. The Debtor shall have until July 7, 2020, to cure the default.

If the installment is not timely paid, the case may be dismissed without further notice or hearing. If any future installment is not timely paid, the case may also be dismissed without further notice or hearing.

If the installment is timely paid, the order to show cause shall be deemed discharged.

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

FURTHER ORDERED that the Debtor's attorney shall inform the Debtor of the deadline to pay the installment and further inform the Debtor that the case will be dismissed if the installment is not timely paid.

The court will enter a minute order.

4. [19-21705](#)-B-13 TOBY TOLEN
[JGD](#)-12 John G. Downing

CONTINUED MOTION FOR
COMPENSATION FOR JOHN DOWNING,
ACCOUNTANT(S)
5-26-20 [[171](#)]

Final Ruling

This matter was continued from June 16, 2020, to allow any opposition or response to be filed by June 23, 2020. Since no opposition was filed, the court's conditional approval of the application and allowance of attorney's fees requested shall become the court's final decision. See dkts. 176, 178. No appearance at the June 30, 2020, hearing is necessary.

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

The court will issue an order.

5. [15-26907](#)-B-13 WILLIAM DOTY MOTION TO DISMISS CASE
[DPC-2](#) R. Kenneth Bauer 6-1-20 [[67](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$18,010.78, which represents approximately 4 plan payments. An additional payment of \$4,527.26 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installments owed to Cenlar FSB for months December 2019, March 2020, April 2020, and May 2020 for a total amount of \$11,604.25. Section 3.07(b) of the plan cannot be effectively administered.

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee moves to dismiss case on two grounds:

First, Debtors are delinquent to the Chapter 13 Trustee in the amount of \$10,140.00, which represents approximately 3 plan payments. An additional payment of \$3,421.00 will be due by the date of the hearing on this matter.

Second, due to Debtors' failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Specialized Loan Servicing LLC for months November 2019, April 2020, and May 2020 in the total amount of \$7,240.62. Section 3.07(b) of the plan cannot be effectively administered.

The Debtors filed a response acknowledging their default and state that they will be current by the date of the hearing.

The Trustee shall submit an appropriate order based on the status at the time of the hearing, i.e., 1:00 p.m. June 30, 2020:

(1) If the Debtors are current, the Trustee shall submit an order denying the motion to dismiss without prejudice.

(2) If the Debtors are not current, the Trustee shall submit an order that provides the Debtors shall have until July 30, 2020, to become current or the case may be dismissed on the Trustee's ex parte application.

7. [17-25108](#)-B-13 CHRISTOPHER CAMPBELL
[DPC-1](#) Mikalah R. Liviakis

MOTION TO DISMISS CASE
6-1-20 [[43](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$4,790.00, which represents approximately 2 plan payments. An additional payment of \$2,414.25 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installments owed to Wells Fargo Bank NA for April 2020 in the total amount of \$1,333.60. Section 3.07(b) of the plan cannot be effectively administered.

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

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

The court will issue an order.

8. [18-22708](#)-B-13 DEDAN KIMANI
[DPC-2](#) Steven A. Alpert

MOTION TO DISMISS CASE
6-2-20 [[49](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$4,175.00, which represents approximately 4 plan payments. An additional payment of \$1,044.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$21,486.00 and an additional payment of \$8,843.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor has failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained the objections to confirmation by the Chapter 13 Trustee and creditor Deutsche Bank National Trust Company. To date, the Debtor has failed to take further action to confirm a plan in this case.

The Debtor filed a response stating that she will be meeting with her counsel on June 22, 2020, to discuss the case and will file a supplemental record accordingly. As of June 26, 2020, no supplemental record was filed indicating that the delinquency has been cured or that a plan will be filed.

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$1,186.67 and an additional payment of \$2,789.56 will be due by the date of the hearing on this matter.

Second, the Debtor has failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court denied the Debtor's motion to confirm amended plan. To date, the Debtor has failed to take further action to confirm a plan in this case.

The Debtor filed a response stating that she has cured the default and submitted a payment to the Trustee via TFS. She also states that she anticipates submitting a motion to confirm amended plan within 30 days from the date of the hearing.

The Trustee shall submit an appropriate order based on the status at the time of the hearing, i.e., 1:00 p.m. on June 30, 2020:

(1) If the Debtor is current, the Trustee shall submit an order denying the motion to dismiss without prejudice.

(2) If the Debtor is not current, the Trustee shall submit an order that provides the Debtor shall have until July 30, 2020, to become current or file, set, and serve an amended plan or the case may be dismissed on the Trustee's ex parte application.

Final Ruling

The motion to dismiss case filed by the Chapter 13 Trustee ("Trustee") has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed by Debtor John Hatzis ("Debtor").

The Trustee moves to dismiss on two grounds.

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$5,300.00 and an additional payment of \$5,300.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor has failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained the Trustee's objection to confirmation of the Debtor's prior plan on March 25, 2020. To date, the Debtor has failed to take further action to confirm a plan in this case.

The Debtor filed a response requesting that the court hold a hearing since the Debtor would like an opportunity to be heard and to present evidence that the Trustee's issues for dismissal have been resolved.

The court initially notes that this case has now been pending for over six months without a confirmed plan, without any apparent effort by the Debtor to confirm a plan, and now without plan payments. The Debtor is also apparently using this case as a shield for state court litigation in a two-party dispute with a secured creditor which is indicative of bad faith.

The court also notes that the Debtor has been heard in opposition to the Trustee's motion to dismiss. The court has thoroughly reviewed and considered the motion, opposition, and all relevant declarations and exhibits. The court has also reviewed and takes judicial notice of the docket. See Fed. R. Evid. 201(c)(1). Any deficiency in the Debtor's opposition rests squarely with the Debtor and his attorney.

The court notes that the Debtor submitted no evidence (not even a declaration) with his opposition. See Local Bankr. R. 9014-1(f)(1)(B) ("Opposition shall be accompanied by evidence establishing its factual allegations."). And the evidentiary record is now closed. See Fed. R. Bankr. P. 9014-1(f)(1)(C). It would therefore be prejudicial to allow the Debtor to use a hearing to - for the first time - present evidence (i) which should have been submitted with the opposition and (ii) which the Trustee would not have had an opportunity to review and consider. See *Colusa Regional Medical Center v. Hopper (In re Colusa Regional Medical Center)*, 604 B.R. 839, 852 (9th Cir. BAP 2019) (citing *Provenz v. Miller*, 102 F.3d 1478, 1483 (9th Cir. 1996)).¹ The Debtor has also not identified in a separate statement any factual dispute(s) supported by appropriate citation(s) to the record. And in failing to do so, the Debtor has effectively consented to a disposition of the Trustee's motion to dismiss based on the written record. See Fed. R. Bankr. P. 9014-1(f)(1)(C).

Based on the foregoing, the court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). Further, oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

¹Due to the courthouse closure resulting from General Order No. 618, if the court determines a hearing is necessary it must be telephonic. The Debtor fails to explain how he would introduce evidence telephonically.

The Trustee has submitted evidence that the Debtor has not made at least one, likely two, significant dollar-amount plan payments. The Debtor has not submitted any evidence which demonstrates that he has made (or has attempted to make) plan payments or otherwise cure his default. Therefore, if, at the time of the hearing on the Trustee's motion to dismiss, *i.e.*, 1:00 p.m. on June 30, 2020, the Debtor is not current on plan payments or the Trustee is unable to confirm payment(s) from the Debtor in an amount sufficient to bring the Debtor current this case is ORDERED DISMISSED and the Trustee shall submit an order granting the motion to dismiss.

Even if the Debtor is current with payments by 1:00 p.m. on June 30, 2020, the Debtor must also file, set, and serve and amended plan inasmuch as the court sustained the Trustee's objection to - and thereby denied confirmation of - the Debtor's prior plan over three months ago and the Debtor has not taken further action in the case since that time. The Debtor acknowledges this as his opposition states that "[b]y the date of the hearing [he] will either consent to have his case dismissed or file an amended plan and have confirmation of the plan set for hearing." Docket 66 at p.2, ¶ 4. Therefore, even if at the time of the hearing on the Trustee's motion to dismiss, *i.e.*, 1:00 p.m. on June 30, 2020, the Debtor is current but has not filed, set, and served an amended plan, consistent with the Debtor's consent to dismissal in the absence of an amended plan, this case is ORDERED DISMISSED and the Trustee shall submit an order granting the motion to dismiss.

To be clear, by 1:00 p.m. on June 30, 2020, the Debtor (i) must be current with all plan payments and (ii) must have an amended plan on file which has been served and set for hearing. If both conditions are met, the Trustee's motion will be denied without prejudice. If both conditions are not met, the Trustee's motion will be granted and the case dismissed.

The Trustee shall submit an appropriate order consistent with this ruling.

12. [19-24211](#)-B-13 OSWALDO PEREZ AND BIANCA MOTION TO DISMISS CASE
[DPC-1](#) CERVANTES 6-1-20 [[33](#)]
Mohammad M. Mokarram

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtors are delinquent to the Chapter 13 Trustee in the amount of \$7,998.00, which represents approximately 4 plan payments. An additional payment of \$2,000.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

The court will issue an order.

13. [20-20815](#)-B-13 KELLY MCKELLAR
[DPC-2](#) Douglas B. Jacobs

MOTION TO DISMISS CASE
6-2-20 [[35](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case for two reasons.

First, the Debtor is delinquent to the Trustee in the amount of \$4,254.00 and an additional payment of \$2,127.00 will be due by the date of the hearing on this matter.

Second, the Debtor has failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained the objections to confirmation by the Chapter 13 Trustee and creditor HSBC Bank USA, National Association.

The Debtor filed a response stating she is now current on plan payments and has filed an amended plan, the confirmation hearing of which is set for August 4, 2020, at 1:00 p.m.

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

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

The court will issue an order.

14. [17-23516](#)-B-13 DAN KAO
[DPC-1](#) Peter G. Macaluso

MOTION TO DISMISS CASE
6-1-20 [[56](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$5,415.00, which represents approximately 3 plan payments. An additional payment of \$1,805.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Wells Fargo Home Bank NA for months November 2019, April 2020, and May 2020 in the total amount of \$3,030.34. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response acknowledging the default but states that he has paid a total of \$59,565.00 in plan payments. Debtor requests additional time to file, set, serve, and be current under a modified plan.

Given Debtor's response that he has paid \$59,565.00 in plan payments, the motion is conditionally denied. With the current local, state, and national emergency resulting from the COVID-19 pandemic and the consequences thereof, the Debtor shall have 30 days from the hearing date to cure the default and become current or to file, set, and serve a modified plan. Otherwise, the case may be dismissed on the Trustee's ex parte application.

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

The court will issue an order.

15. [18-23816](#)-B-13 LISA SLEDGE MOTION TO DISMISS CASE
[DPC-1](#) Mary Ellen Terranella 6-1-20 [[113](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$15,118.00, which represents approximately 2.5 plan payments. An additional payment of \$6,210.00 will be due by the date of the hearing on this matter.

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Freedom Mortgage Corporation for months March 2020 and April 2020 in the total amount of \$5,774.82. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response acknowledging that she could not make the increased plan payment that commenced March 2020 because she was unable to obtain a second nursing job in February as originally planned because hospitals cut back on elective and non-emergency surgeries to prepare for COVID-19 patients.

Separately, Debtor states that no mortgage payments were required for March and April pursuant to a forbearance agreement with the creditor. Freedom Mortgage Corporation filed a Notice of Mortgage Payment Change on June 16, 2020, to reflect this forbearance agreement. Debtor was also sent a loan modification packet from Freedom Mortgage Corporation and was told that the loan modification process takes 6 to 8 weeks. Debtor believes she will be successful in obtaining a loan modification and will file a modified plan.

Given Debtor's response and the current local, state, and national emergency resulting from the COVID-19 pandemic and the consequences thereof, the Debtor shall have 90 days from the hearing date to confirm a modified plan. Otherwise, the case may be dismissed on the Trustee's ex parte application.

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

The court will issue an order.

16. [20-20218](#)-B-13 KATHY CUNNINGHAM
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-19-20 [[32](#)]

DEBTOR DISMISSED: 6/6/20

Final Ruling

The case was dismissed by the Debtor on June 6, 2020. The order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the.

The court will issue an order.

17. [14-31023](#)-B-13 JEANITA HARRIS
[DPC-1](#) Elliot Gale

MOTION TO DISMISS CASE
6-1-20 [[42](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$2,580.00, which represents approximately 6 plan payments. An additional payment of \$430.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$1,950.00 and an additional payment of \$1,950.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

Fourth, the Debtor's plan filed March 12, 2020, was not served on all interested parties and no motion to confirm plan is pending. Moreover, a confirmation hearing is to be held no later than 45 days after the first meeting of creditors unless the court determines it should be held sooner. 11 U.S.C. § 1324. The first meeting of creditors was held and concluded on May 21, 2020, so the 45 days will have elapsed by the date of the hearing on this motion.

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

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

The court will issue an order.

19. [20-21425](#)-B-13 DYLAN ANDERSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-14-20 [[25](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due May 11, 2020. The court's docket reflects that the default has not been cured. The Debtor shall have until July 7, 2020, to cure the default.

If the installment is not timely paid, the case may be dismissed without further notice or hearing. If any future installment is not timely paid, the case may also be dismissed without further notice or hearing.

If the installment is timely paid, the order to show cause shall be deemed discharged.

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

The court will enter a minute order.

20. [19-20827](#)-B-13 SERGIO ZUCCALA MOTION TO DISMISS CASE
[DPC-2](#) Kristy A. Hernandez 6-2-20 [[37](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f)..

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$5,650.00, which represents approximately 2 plan payments. An additional payment of \$2,825.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installments owed to SN Servicing Corporation for April 2020 in the total amount of \$1760.50. Section 3.07(b) of the plan cannot be effectively administered.

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$3,952.24, which represents approximately 2 plan payments. An additional payment of \$1,992.24 will be due by the date of the hearing on this matter.

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to NewRez LLC DBA Shellpoint Mortgage Servicing for March 2020 in the total amount of \$1,210.22. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response stating that she is current on plan payments based on a payment made on March 20, 2020, and June 3, 2020. Debtor attempted but was unable to confirm whether her cashier's check was cashed because her bank will not provide the information over the phone and it is closed to in-person appointments due to COVID-19.

The Trustee shall submit an appropriate order based on the status at the time of the hearing, i.e., 1:00 p.m. on June 30, 2020:

(1) If the Debtor is current, the Trustee shall submit an order denying the motion to dismiss without prejudice.

(2) If the Debtor is not current, the Trustee shall submit an order that provides that the Debtor shall have until July 30, 2020, to become current or the case may be dismissed on the Trustee's ex parte application.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case for two reasons:

First, the Debtor is delinquent to the Trustee in the amount of \$212.00 and an additional payment of \$212.00 will be due by the date of the hearing on this matter.

Second, the Debtor has failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Chapter 13 Trustee and no plan is pending.

The Debtor filed a response stating he is now current on plan payments and has filed an amended plan, the confirmation hearing of which is set for July 14, 2020, at 1:00 p.m.

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

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

The court will issue an order.

23. [18-24931](#)-B-13 CHRISTOPHER/NEVA FULLER MOTION TO DISMISS CASE
[DPC-1](#) Bruce Charles Dwigins 6-1-20 [[35](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The court having confirmed that the Debtors are current on plan payments, cause does not exist to dismiss this case. The motion is denied and the case is not dismissed.

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

The court will issue an order.

24. [17-22634](#)-B-13 RANDY RICHARDSON AND
[DPC-1](#) JACQUELYN
W. Steven Shumway

MOTION TO DISMISS CASE
6-1-20 [[163](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee moves to dismiss the case on grounds that the Debtors are delinquent to the Chapter 13 Trustee in the amount of \$1,700.00 which represents 1 plan payment. An additional payment of \$1,700.00 will be due by the date of the hearing on this matter.

The Debtors filed a response stating that they do not believe they missed a payment in August 2019. However, if a payment was missed, Debtors will file a motion to modify their plan to resolve the delinquency. Debtors note that their employment was affected by the COVID-19 shelter-in-place restrictions.

The Trustee shall submit an appropriate order based on the status at the time of the hearing, i.e., 1:00 p.m. on June 30, 2020, at 1:00 p.m.:

(1) If the Debtor is current, the Trustee shall submit an order denying the motion to dismiss without prejudice.

(2) If the Debtor is not current, the Trustee shall submit an order that provides that the Debtor shall have until July 30, 2020, to become current or file, set, and serve a modified plan or the case may be dismissed on the Trustee's ex parte application.

25. [20-20040](#)-B-13 BRAD HAMILTON AND CHERISE MOTION TO DISMISS CASE
[DPC-1](#) WILLIAMS 5-27-20 [[25](#)]
John G. Downing

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtors failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Chapter 13 Trustee. To date, the Debtors have failed to take further action to confirm a plan in this case.

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

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

The court will issue an order.

26. [19-26941](#)-B-13 MICHAEL WYCLIFFE AND MOTION TO DISMISS CASE
[DPC-3](#) REBECCA WEAVER 5-27-20 [[41](#)]
Peter G. Macaluso

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, the Debtors are delinquent to the Trustee in the amount of \$1,200.00 and an additional payment of \$300.00 will be due by the date of the hearing on this matter.

Second, the Debtors failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Chapter 13 Trustee and no plan is pending.

The Debtors filed a response acknowledging the default but state that they have paid a total of \$600.00 in plan payments. Debtors request additional time to file, set, serve, and be current under a modified plan.

Given the Debtors' response, the motion is conditionally denied. With the current local, state, and national emergency resulting from the COVID-19 pandemic and the consequences thereof, the Debtor shall have 30 days from the hearing date to cure the default and become current or to file, set, and serve a modified plan. Otherwise, the case may be dismissed on the Trustee's ex parte application.

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

The court will issue an order.

27. [20-20049](#)-B-13 MONIQUE MORENO
[DPC-1](#) Peter G. Macaluso

MOTION TO DISMISS CASE
5-27-20 [[35](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$7,474.44 and an additional payment of \$2,193.61 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor's plan filed January 20, 2020, was not served on all interested parties and no motion to confirm plan is pending. Moreover, a confirmation hearing is to be held no later than 45 days after the first meeting of creditors unless the court determines it should be held sooner. 11 U.S.C. § 1324. The first meeting of creditors was held and concluded on May 21, 2020, so the 45 days will have elapsed by the date of the hearing on this motion.

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Chapter 13 Trustee moves to dismiss case on two grounds:

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$33,715.00, which represents approximately 3 plan payments. An additional payment of \$10,000.00 will be due by the date of the hearing on this matter.

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Ocwen Loan Servicing LLC for February 2020 in the total amount of \$5,421.31. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response stating that he is considering converting the case to a chapter 7. Debtor anticipates that the request to convert would be filed no later than June 29, 2020.

If the Debtor has not converted this case to a chapter 7 case by noon on June 29, 2020, as he represented in a request for a continuance of this hearing, see dkt. 151, the Trustee's motion will be granted and this case will be dismissed without further notice or hearing.

The Trustee shall submit an appropriate order based on the status at the time of the hearing.

29. [20-20054](#)-B-13 DAVID/LISA EUFEMIA
[DPC](#)-3 CARLSON
Robert P. Huckaby

MOTION TO DISMISS CASE
5-27-20 [[110](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtors are delinquent to the Trustee in the amount of \$400.00 and an additional payment of \$400.00 will be due by the date of the hearing on this matter.

Second, the Debtors failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained objections to confirmation by the Chapter 13 Trustee and Title Holding Services Corp. To date, the Debtors have failed to take further action to confirm a plan in this case.

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

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

The court will issue an order.

30. [19-27562](#)-B-13 KENNETH SMITHOUR MOTION TO DISMISS CASE
[DPC-3](#) Mary Ellen Terranella 5-27-20 [[54](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Trustee in the amount of \$10,950.00 and an additional payment of \$2,750.00 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Chapter 13 Trustee. To date, no further action has been made to confirm a plan in this case.

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

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

The court will issue an order.

31. [16-20763](#)-B-13 LAWRENCE/CHYANNE MICALLEF MOTION TO DISMISS CASE
[DPC-2](#) Mark A. Wolff 6-1-20 [[150](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case for two reasons:

First, the Debtors are delinquent to the Trustee in the amount of \$19,200.00 and an additional payment of \$6,400.00 will be due by the date of the hearing on this matter.

Second, due to Debtors' failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Wells Fargo Bank NA for March 2020, April 2020, and May 2020 in the total amount of \$11,393.01. Section 3.07(b) of the plan cannot be effectively administered.

The Debtors filed a response acknowledging their delinquency and state that they have filed a modified plan to address this issue. The confirmation hearing is set for August 4, 2020, at 1:00 p.m.

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

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

The court will issue an order.

32. [19-27463](#)-B-13 JOAN PHILLIPS
[DPC-1](#) Richard L. Jare

MOTION TO DISMISS CASE
5-27-20 [[64](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, the Debtor is delinquent to the Trustee in the amount of \$1,527.62 and an additional payment of \$1,638.81 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by Wilmington Savings Fund Society, FSB and no plan is pending.

The Debtor filed a response stating that she is current on plan payments and has filed a modified plan, the confirmation hearing of which is set for August 3, 2020, at 1:00 p.m.

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

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

The court will issue an order.

33. [19-27665](#)-B-7 ANTOINETTE EDWARDS MOTION TO DISMISS CASE
[DPC-2](#) Peter G. Macaluso 5-27-20 [[75](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Trustee in the amount of \$11,250.00 and an additional payment of \$3,770.00 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained objections to confirmation by the Trustee and Bosco Credit LLC. The Debtor has failed to take further action to confirm a plan in this case.

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

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

The court will issue an order.

34. [19-21366](#)-B-13 ANTHONY/BARBARA WATSON MOTION TO DISMISS CASE
[DPC](#)-1 Nicholas Wajda 6-1-20 [[27](#)]

Final Ruling

The Chapter 13 Trustee has filed a withdrawal for the pending Trustee's Motion to Dismiss Case, the withdrawal being consistent with the opposition filed to the motion. The court interprets the withdrawal 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 Trustee's motion to dismiss case. The case will proceed in this court.

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

The court will issue an order.

35. [20-20368](#)-B-13 ROMY OSTER
[DPC-2](#) Mark W. Briden

MOTION TO DISMISS CASE
5-27-20 [[33](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Trustee in the amount of \$10,000.00 and an additional payment of \$2,500.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained objections to confirmation by the Trustee and Federal Home Loan Mortgage Corporation. The Debtor has failed to take further action to confirm a plan in this case.

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

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

The court will issue an order.

36. [20-21471](#)-B-13 JOHN STAHLECKER
Pauldeep Bains

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-18-20 [[32](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$77.00 installment when due on May 11, 2020. While the delinquent installment was paid on June 5, 2020, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

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

The court will issue an order.

37. [16-28073](#)-B-13 JEFFREY/YELENA MAYHEW MOTION TO DISMISS CASE
[DPC-2](#) Peter G. Macaluso 6-1-20 [[177](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtors are delinquent to the Chapter 13 Trustee in the amount of \$25,691.14, which represents approximately 4 plan payments. An additional payment of \$6,401.14 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtors' failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installments owed to Penny Mac Loan Services LLC for months December 2019, January 2020, February 2020, March 2020, April 2020, and May 2020 for a total amount of \$16,864.14. Section 3.07(b) of the plan cannot be effectively administered.

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

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

The court will issue an order.

38. [17-20973](#)-B-13 JESSE FARLEY MOTION TO DISMISS CASE
[DPC-1](#) Richard L. Sturdevant 6-1-20 [[60](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Debtor is delinquent to the Chapter 13 Trustee in the amount of \$4,005.00, which represents approximately 3 plan payments. An additional payment of \$1,335.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on four grounds:

First, the Debtor is delinquent to the Trustee in the amount of \$93,036.00 and an additional payment of \$1,400.00 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Trustee and no plan is pending.

Third, the Debtor has failed to file all pre-petition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. § 1308 and § 1325(a)(9). Tax returns for years 2012 and 2018 have not been filed.

Fourth, the Debtor has not provided the Trustee with requested copies of business documents including, but not limited to, two years of tax returns, six months of profit and loss statements, six months of bank statements, proof of license, and insurance or written statements that no such documentation exists. 11 U.S.C. § 521(e)(2)(A), Fed. R. Civ. P. 4002(b)(3).

The Debtor filed a response stating that he has filed an amended plan to resolve the issues. The confirmation hearing is set for August 11, 2020, at 1:00 p.m. Debtor also states that he has not been able to file the tax returns since his accountant has been unavailable due to COVID-19. Debtor states that he has given bank statements to the Trustee, that he has no profit and loss statement to provide, and he does not have a business license since it is not necessary for him to carry a license.

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

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

The court will issue an order.

40. [20-21675](#)-B-13 JACQUELINE TABOR
George T. Burke

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-26-20 [[15](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due May 19, 2020. The court's docket reflects that the default was cured on June 22, 2020. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

41. [20-21977](#)-B-13 CHRISTINE BONILLA ORDER TO SHOW CAUSE - FAILURE
Thru #42 Peter G. Macaluso TO PAY FEES
5-12-20 [[15](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due May 19, 2020. The court's docket reflects that the default has not been cured. The Debtor shall have until July 7, 2020, to cure the default.

If the installment is not timely paid, the case may be dismissed without further notice or hearing. If any future installment is not timely paid, the case may also be dismissed without further notice or hearing.

If the installment is timely paid, the order to show cause shall be deemed discharged.

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

FURTHER ORDERED that the Debtor's attorney shall inform the Debtor of the deadline to pay the installment and that this case will be dismissed if the installment is not timely paid.

The court will enter a minute order.

42. [20-21977](#)-B-13 CHRISTINE BONILLA ORDER TO SHOW CAUSE - FAILURE
Peter G. Macaluso TO PAY FEES
6-11-20 [[25](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due June 8, 2020. The court's docket reflects that the default has not been cured. The Debtor shall have until July 7, 2020, to cure the default.

If the installment is not timely paid, the case may be dismissed without further notice or hearing. If any future installment is not timely paid, the case may also be dismissed without further notice or hearing.

If the installment is timely paid, the order to show cause shall be deemed discharged.

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

FURTHER ORDERED that the Debtor's attorney shall inform the Debtor of the deadline to pay the installment and that this case will be dismissed if the installment is not timely paid.

The court will enter a minute order.

43. [16-27478](#)-B-13 RAYMOND WOLFE
[DPC](#)-1 Steven A. Alpert

MOTION TO DISMISS CASE
6-1-20 [[77](#)]

WITHDRAWN BY M.P.

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal of its motion, 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 motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). No opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Trustee in the amount of \$12,667.00 and an additional payment of \$3,168.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court denied a motion to confirm amended plan. The Debtor has failed to take further action to confirm a plan in this case.

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

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

The court will issue an order.

45. [19-27880](#)-B-13 JONATHAN GARCIA
[DPC-2](#) Richard L. Jare

MOTION TO DISMISS CASE
5-27-20 [[51](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, the Debtor is delinquent to the Trustee in the amount of \$975.00 and an additional payment of \$325.00 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained an objection to confirmation by the Chapter 13 Trustee and no plan is pending.

The Debtor filed a response stating that he has filed a modified plan to resolve the issues raised. The confirmation hearing is set for August 18, 2020, at 1:00 p.m.

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

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

The court will issue an order.

46. [20-21783](#)-B-13 TEMA ROBINSON
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-1-20 [[38](#)]

Final Ruling

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$77.00 installment when due on May 26, 2020. While the delinquent installment was paid on June 8, 2020, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, the Debtor is delinquent to the Trustee in the amount of \$3,420.00 and an additional payment of \$3,420.00 will be due by the date of the hearing on this matter.

Second, the Debtor failed to prosecute this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). The court sustained objections to confirmation by the Trustee and Deutsche Bank National Trust Company and no plan is pending.

The Debtor filed a response stating that she is current on plan payments and has filed a modified plan, the confirmation hearing of which is set for August 4, 2020, at 1:00 p.m.

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

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

The court will issue an order.

48. [20-20194](#)-B-13 FLORA BROUGHTON
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-18-20 [[64](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due May 13, 2020. The court's docket reflects that the default was cured on June 22, 2020. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

49. [17-25195](#)-B-13 JUSTINO SANCHEZ
[DPC-2](#) Richard L. Jare

MOTION TO DISMISS CASE
6-1-20 [[108](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, the Debtor is delinquent to the Trustee in the amount of \$12,300.00 and an additional payment of \$2,600.00 will be due by the date of the hearing on this matter.

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installments owed to LoanCare LLC for months June 2019, August 2019, January 2020, February 2020, March 2020, and May 2020 for a total amount of \$10,072.52. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response stating that he has filed a modified plan to resolve the issues raised. The confirmation hearing is set for August 4, 2020, at 1:00 p.m.

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

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$9,633.00, which represents approximately 2 plan payments. An additional payment of \$3,211.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to Select Portfolio Servicing for months March 2020 and May 2020 in the total amount of \$4,276.68. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response acknowledging the default but states that he has paid a total of \$34,477.00 in plan payments. Debtor requests additional time to file, set, serve, and be current under a modified plan.

Given Debtor's response, the motion is conditionally denied. With the current local, state, and national emergency resulting from the COVID-19 pandemic and the consequences thereof, the Debtor shall have 30 days from the hearing date to cure the default and become current or to file, set, and serve a modified plan. Otherwise, the case may be dismissed on the Trustee's ex parte application.

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

The court will issue an order.

51. [17-26397](#)-B-13 HELEN CASACLANG MOTION TO DISMISS CASE
[DPC-1](#) Mary Ellen Terranella 6-1-20 [[67](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

The Chapter 13 Trustee moves to dismiss the case on two grounds:

First, Debtor is delinquent to the Chapter 13 Trustee in the amount of \$16,834.86, which represents approximately 4 plan payments. An additional payment of \$4,704.37 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, due to Debtor's failure to make timely plan payments under the terms of the plan, the Trustee lacked sufficient funds to pay the post-petition contract installment to LoanCare LLC for months February 2020, April 2020 and May 2020 in the total amount of \$8,728.65. Section 3.07(b) of the plan cannot be effectively administered.

The Debtor filed a response acknowledging the default and requests additional time to file, set, serve, and be current under a modified plan.

Given Debtor's response, the motion is conditionally denied. With the current local, state, and national emergency resulting from the COVID-19 pandemic and the consequences thereof, the Debtor shall have 30 days from the hearing date to cure the default and become current or to file, set, and serve a modified plan. Otherwise, the case may be dismissed on the Trustee's ex parte application.

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

The court will issue an order.

52. [20-20797](#)-B-13 NIDA LACAP
[DPC](#)-2 Peter G. Macaluso

MOTION TO DISMISS CASE
5-27-20 [[40](#)]

WITHDRAWN BY M.P.

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal of its motion, 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 motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

53. [20-20799](#)-B-13 ANDREW/REBECCA STANLEY MOTION TO DISMISS CASE
[DPC-1](#) Matthew J. DeCaminada 5-27-20 [[36](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

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

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$4,620.00 and an additional payment of \$1,540.00 will be due by the date of the hearing on this matter. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor's plan filed March 11, 2020, was not served on all interested parties and no motion to confirm plan is pending. Moreover, a confirmation hearing is to be held no later than 45 days after the first meeting of creditors unless the court determines it should be held sooner. 11 U.S.C. § 1324. The first meeting of creditors was held and concluded on April 23, 2020, so the 45 days will have elapsed by the date of the hearing on this motion.

The Debtors filed a response explaining their difficulties using TFS Bill Pay, the status of their tax returns, communications with creditors Johnson Homes, Chrysler, and Dave Smith Motors, and that they will file an amended plan, which was filed on June 26, 2020. The confirmation hearing is set for August 11, 2020, at 1:00 p.m.

However, the Debtors do not address the fact that the confirmation hearing period has lapsed. The first meeting of creditors was held and concluded on April 23, 2020, and the confirmation hearing should have been held no later than 45 days from that date, which was June 9, 2020. It is now impossible for the court to hold a confirmation hearing within the time required by § 1324(b). See *In re Butcher*, 459 B.R. 115, 119 (Bankr. D. Colo. 2011) ("11 U.S.C. § 1324(b) requires chapter 13 confirmation hearings to be held between 20 and 45 days after the § 341 meeting date. It gives the Court discretion to hold the confirmation hearing sooner but not later."). Dismissal without prejudice to refiling is therefore appropriate. See *In re Donnell*, 2012 WL 8255546 at *2 (Bankr. E.D. Cal. 2012).

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

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

The court will issue an order.