

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

September 27, 2016 at 1:00 p.m.

1. [16-24208](#)-B-13 AMBER CURE MOTION TO DISMISS CASE
JPJ-2 Mohammad M. Mokarram 9-13-16 [[28](#)]

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 dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for August 4, 2016, and also did not appear at the continued meeting of creditors set for August 18, 2016. The meeting concluded on August 18, 2016, without an appearance by the Debtor. Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor is delinquent in the amount of \$4,000.00, which represents approximately 2 plan payments. By the time this matter is heard, an additional plan payment in the amount of \$2,000.00 will also be due. The Debtor has not made any plan payments since this petition was filed on June 29, 2016. Cause exists to dismiss this case pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

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

September 27, 2016 at 1:00 p.m.

2. [16-25108](#)-B-13 JANE RIVERS
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-7-16 [[20](#)]

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

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on September 2, 2016. While the delinquent installment was paid on September 9, 2016, the fact remains 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.

3. [16-23420](#)-B-13 IVAN SYTAY
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-29-16 [[46](#)]

DEBTOR DISMISSED: 09/02/2016

Final Ruling: No appearance at the September 27, 2016, hearing is required.

The case having previously been dismissed, the Order to Show Cause is discharged as moot, with no sanctions ordered.

4. [16-25645](#)-B-13 ERNESTO DIAZ
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-9-16 [[12](#)]

DEBTOR DISMISSED: 09/13/2016

Final Ruling: No appearance at the September 27, 2016, hearing is required.

The case having previously been dismissed, the Order to Show Cause is discharged as moot, with no sanctions ordered.

5. [16-23751](#)-B-13 RITA SCHROEDER
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-15-16 [[38](#)]

DEBTOR DISMISSED: 09/02/2016

Final Ruling: No appearance at the September 27, 2016, hearing is required.

The case having previously been dismissed, the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 dismiss the case.

The Debtors have not provided the Trustee with requested information or documentation regarding their present medical and transportation expenses. The monthly expenses on Schedule J filed on March 1, 2013, show \$2,750.00 for medical expenses and \$1,250.00 for transportation expenses. However, the Debtors' bank account statements do not indicate that these expenses are currently reasonable and necessary for the health, welfare, maintenance, and support of the Debtors. By failing to provide requested information, the Debtors have not cooperated with the Trustee and thus have failed to comply with 11 U.S.C. § 521(a)(3). This failure is preventing the Trustee from performing his duties under 11 U.S.C. § 1302. There is cause 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.

7. [14-27661](#)-B-13 MICHAEL/JURHEE POLLARD MOTION TO DISMISS CASE
JPJ-3 Michael David Croddy 8-19-16 [[75](#)]

Final Ruling: No appearance at the September 27, 2016, hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to dismiss the case.

Although the Debtors have prepared and transmitted to the Chapter 13 Trustee on August 30, 2016, an order confirming the Chapter 13, there is no indication that the Debtors have cured their delinquency in plan payments. Under the terms of the modified plan filed April 29, 2016, and confirmed on August 30, 2016, the Debtors are delinquent \$1,030.00. Additionally, by the time this matter is heard, the Debtors will be delinquent in the amount of \$515.00. 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.

8. [16-24973](#)-B-13 MARTIN/ANNETTE SNEZEK
Steele Lanphier

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-2-16 [[24](#)]

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 Debtors' failure to pay \$79.00 due August 29, 2016. The court's docket reflects that the default has not been cured.

9. [16-20799](#)-B-13 JOHN SHAFER MOTION TO DISMISS CASE
JPJ-2 Mary Ellen Terranella 8-30-16 [[45](#)]

Tentative Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

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

Subsequent to the filing of the Trustee's motion to dismiss for failure to prosecute and delinquency in plan payments, the Debtor filed an amended plan on September 13, 2016, which Debtor asserts addresses the delinquency. The confirmation hearing for the amended plan is scheduled for November 1, 2016.

Cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed.