

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

September 28, 2021 at 2:00 p.m.

1.	20-24838 -C-13	KAREN DEBODA	CONTINUED MOTION TO DISMISS
	RDG -2	Stephan Brown	CASE
			7-13-21 [57]

Final Ruling: No appearance at the September 28, 2021 hearing is required.

The Movant having filed a withdrawal before any responsive pleading was filed, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion is dismissed without prejudice, and the matter is removed from the calendar.**

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 34.

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtors have not filed an amended plan since the court denied confirmation of the Chapter 13 plan on July 27, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 27, 28.

The Motion also argues debtors are \$270.00 delinquent in plan payments, which is supported by declaration. Dkt. 33.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtors that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

3. [20-25380](#)-C-13 KATRINA NOPEL
[RDG](#)-3 Peter Cianchetta

CONTINUED MOTION TO DISMISS
CASE
6-8-21 [[53](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dkt. 56.

The Motion to Dismiss is ~~XXXXXXXX~~

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on May 11, 2021.

DISCUSSION

The debtor filed a new plan set for November 9, 2021, confirmation hearing.

At the hearing, ~~XXXXXXXXXXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are
stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee, Russell
Greer, having been presented to the court, and
upon review of the pleadings, evidence,
arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Motion to
Dismiss is ~~XXXXXXXXXXXXXXXXXX~~

4. [20-24784](#)-C-13 RODERICO/JACQUELINE
BENIPAYO
Julius Cherry

ORDER TO SHOW CAUSE - FAILURE
TO TENDER FEE FOR FILING
TRANSFER OF CLAIM
9-7-21 [[35](#)]

Final Ruling: No appearance at the September 28, 2021 hearing is required.

The court issued this Order To Show Cause because a transfer of claim was filed without paying the filing fee.

A review of the docket shows that the fee has now been paid. Therefore, the Order To Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged.

5. [21-22297](#)-C-13 ROBERT BROWNFIELD
Matthew DeCaminada

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-1-21 [[29](#)]

Final Ruling: No appearance at the September 28, 2021 hearing is required.

The court issued this Order to Show Cause because creditor, Christina Kimble, filed a motion without paying the filing fee.

A review of the docket shows that the fee has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 36.

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed a motion setting a confirmation hearing on the Chapter 13 plan.

A review of the docket confirms no confirmation hearing is pending.

The Motion also argues debtor is \$3,710.31 delinquent in plan payments, which is supported by declaration. Dkt. 35.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.