

# Eastern District of California

Chief Bankruptcy Judge  
Sacramento, California

[illegible]

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions are ordered, and the case shall proceed.

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**Final Ruling:** No appearance at the November 12, 2014 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on October 15, 2014. Twenty-eight days' notice is required. That requirement was met.

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

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

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

1. Debtor is \$165.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$165.00 is due on October 25, 2014.
2. Debtor's Motion to Confirm was heard and denied at the hearing on October 7, 2014. To date, Debtor has not filed an Amended Plan.

Debtor is not making the required plan payments and is not adequately prosecuting the Chapter 13 case. Pursuant to 11 U.S.C. § 1307(c), cause exists to dismiss this case. The motion is granted and the case is dismissed. The court shall issue a minute order substantially in the following form holding that:

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

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

**IT IS ORDERED** that the Motion to  
Dismiss is granted and the case is dismissed.

**November 12, 2014 at 10:00 a.m.**

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

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on October 15, 2014. Twenty-eight days' notice is required. That requirement was met.

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

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$4,869.50 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$4,869.50 is due on October 25, 2014. Debtor has paid \$9,739.00 into the plan to date.
2. The case was filed on June 2, 2014 and Debtor has not confirmed a plan. Trustee's Objection to Confirmation was sustained by the court on August 5, 2014 and Debtor has not filed an amended plan.

**DEBTOR'S RESPONSE**

In response, Debtor states that a First Amended Plan and Motion to Confirm are set for hearing on December 16, 2014. Debtor asserts that the plan addresses the concerns of the Trustee from the Meeting of Creditors. Debtor states the delay on getting the amended plan on file was due to issues surrounding Debtor's filing of delinquent tax returns. The three delinquent returns have been properly filed and the Internal Revenue Service has filed its claims.

As for plan payments, Debtor states that he made the September 25, 2014 payment and will make the October payment "right away."

## **DISCUSSION**

There is no declaration or other form of evidence from the Debtor supporting the statement from the motion that the September 25, 2014 payment was made or that the October 25, 2014 payment would be made immediately. As far as the court is concerned, Debtor remains delinquent in plan payments and cause exists for the court to dismiss the case.

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

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is granted and the case is dismissed.

4. [14-28843](#)-C-13 LOREN/REBECCA MITCHELL ORDER TO SHOW CAUSE - FAILURE  
Mikalah R. Liviakis TO PAY FEES  
10-7-14 [17]

**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on October 2, 2014). The court docket reflects that on October 28, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

**The Order to Show Cause is discharged.** No appearance required.

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

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

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

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

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions are ordered, and the case shall proceed.

5. [14-28055](#)-C-13 TERRY CONANT  
Thru #6 Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
10-14-14 [[53](#)]

**CASE DISMISSED 10/21/14**

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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The case having previously been dismissed, the order to show cause is discharged as moot.

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

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

The Order to Show Cause having been  
issued by the court, the case having been  
previously dismissed, and upon review of the  
pleadings, evidence, and good cause appearing,

**IT IS ORDERED** that the order to show  
cause is discharged as moot, the case having  
been dismissed.

6. [14-28055](#)-C-13 TERRY CONANT  
DPC-1 Peter G. Macaluso  
**CASE DISMISSED 10/21/14**

MOTION TO DISMISS CASE  
10-15-14 [[54](#)]

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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The case having previously been dismissed, the Motion is dismissed as moot.

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

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

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

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

7. [14-27762](#)-C-13 CESAR RAMAGOZA  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
10-3-14 [[37](#)]

**CASE DISMISSED 10/21/14**

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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The case having previously been dismissed, the order to show cause is discharged as moot.

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

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

The Order to Show Cause having been  
issued by the court, the case having been  
previously dismissed, and upon review of the  
pleadings, evidence, and good cause appearing,

**IT IS ORDERED** that the order to show  
cause is discharged as moot, the case having  
been dismissed.



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

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on October 10, 2014. Twenty-eight days' notice is required. That requirement was met.

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

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The Chapter 13 Trustee moves to Dismiss Debtors' Bankruptcy Case because Debtor is in material default with respect to the terms of the confirmed plan. Based on Trustee's calculations, Debtors are delinquent \$130.00 in plan payments. Prior to the hearing on this matter, another payment of \$65.00 will come due; therefore, Debtors will need to pay \$195.00 to bring the plan current by the hearing date. Pursuant to 11 U.S.C. § 1307(c)(6), material default by a debtor with respect to a term of a confirmed plan is sufficient cause for the court to dismiss a case.

**DEBTOR'S RESPONSE**

Debtor filed a response stating she will be current on or before the hearing.

Debtor has not presented evidence that she is not in material default under the terms of a confirmed plan. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is granted and the case is dismissed.

**Tentative Ruling:** The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on October 28, 2014. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$388.92 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$194.46 is due on November 25, 2014. Debtor has paid \$972.30 into the plan to date.

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

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is granted and the case is dismissed.

10. [14-27878](#)-C-13 JOYCE ATKINS  
Mikalah R. Liviakis

AMENDED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
10-8-14 [[31](#)]

**CASE DISMISSED 10/21/14**

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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The case having previously been dismissed, the Order is discharged as moot.

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

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

The Order to Show Cause having been  
issued by the court, the case having been  
previously dismissed, and upon review of the  
pleadings, evidence, and good cause appearing,

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

11. [14-28178](#)-C-13 JACQUELINE GIPSON  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
10-16-14 [[36](#)]

**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on October 14, 2014). The court docket reflects that the fee was not paid.

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

The fees not having been paid, the Order to Show Cause is sustained. The court is simultaneously granting the Chapter 13 Trustee's Motion to Dismiss, DPC-2 (ECF 32).

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

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

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

**IT IS ORDERED** that the Order to Show Cause  
is sustained, no sanctions are ordered, and  
the case is dismissed.

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on October 14, 2014. Twenty-eight days' notice is required. That requirement was met.

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

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

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

1. Debtor is \$302.19 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$302.19 is due on October 25, 2014. Debtor has paid \$0.00 into the plan to date.

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

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

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

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

**IT IS ORDERED** that the Motion to  
Dismiss is granted and the case is dismissed.

13. [14-29287](#)-C-13 ERIC/MOLLY ELLIS  
Mohammad M. Mokarram

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
10-23-14 [[17](#)]

**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on October 17, 2014). The court docket reflects that on October 23, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

**The Order to Show Cause is discharged.** No appearance required.

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

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

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

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

**IT IS ORDERED** that the Order to Show Cause  
is discharged, no sanctions are ordered, and  
the case shall proceed.



14. [14-27492](#)-C-13 RONALD NEALY-SWIFT  
DPC-2 James L. Keenan

MOTION TO DISMISS CASE  
10-14-14 [[58](#)]

**Final Ruling:** The Chapter 13 Trustee having filed a Notice of Withdrawal on November 5, 2014, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

**Final Ruling:** No appearance at the November 12, 2014 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on October 15, 2014. Twenty-eight days' notice is required. That requirement was met.

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

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

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

1. Debtor is \$2,410.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,205.00 is due on October 25, 2014. Debtor has paid \$0.00 into the plan to date.

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

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

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

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

**IT IS ORDERED** that the Motion to  
Dismiss is granted and the case is dismissed.

**November 12, 2014 at 10:00 a.m.**