

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

**Honorable Christopher M. Klein**  
Bankruptcy Judge  
Sacramento, California

**January 9, 2019 at 9:00 a.m.**

**Notice**

**The court has reorganized the cases, placing all of the  
Final Rulings in the second part of these Posted Rulings,  
with the Final Rulings beginning with Item 48.**

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1.	<a href="#"><u>17-26404</u></a> -C-13 <a href="#"><u>DPC-3</u></a>	JAYME/HEATHER WOOD Pauldeep Bains	MOTION TO DISMISS CASE 12-11-18 <a href="#"><u>[89]</u></a>
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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 11, 2018. Twenty-eight days notice is required. That requirement is 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 deny the Motion to Dismiss without prejudice.</b>
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The Chapter 13 Trustee seeks dismissal of Debtors' case based on the following:

A. Debtors are delinquent in plan payments in the amount of \$6,454.00, with another Plan payment in the amount of \$3,227.00 due prior to the date of the hearing. Debtors have paid \$27,613.00 into

the plan to date.

**DEBTORS' RESPONSE:**

Debtors' attorney responds that Debtors filed and served a Motion to Modify Plan with a hearing set for January 29, 2019. Dckt. 98. Debtors also filed a Motion to Incur Debtor set for hearing on January 15, 2019. Dckt. 93. Debtors' attorney claims that Debtors are current on plan payments proposed in the modified plan.

**DISCUSSION:**

The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckts. 101, 102. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor's personal knowledge. FED. R. EVID. 601, 602.

**At the hearing .....**

In the absence of evidence that Debtors are not current under the Modified Plan or that the Modified Plan is not confirmable, the court dismisses the Trustee's Motion to Dismiss without prejudice.

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 denied without prejudice.

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**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 December 12, 2018. Twenty-eight days notice is required. That requirement is 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:

A. Debtor is delinquent in plan payments in the amount of \$2,400.00, with another Plan payment in the amount of 3,000.00 due prior to the date of the hearing. Debtor has paid \$17,600.00 into the plan to date.

B. Debtor's Confirmed Plan will not pay claims as filed within 60 months. The current monthly payment needs to be increased from \$3,266.06 to \$3,570.00 to complete within the 60 months.

**DEBTORS' RESPONSE:**

Debtor responds that prior to the hearing a modified Plan will be filed, set, and served and the Debtor will be current under the modified Plan.

**DISCUSSION:**

In the absence of evidence that debtor has filed a confirmable modified plan and has become current under the modified plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$2,500.00, with another Plan payment in the amount of \$2,504.16 due prior to the date of the hearing. Debtor has paid \$47,500.00 into the plan to date.

**DEBTORS' RESPONSE**

Debtor's counsel responds that Debtor will be able to cure the delinquency prior to the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$2,557.74, with another Plan payment in the amount of \$2,360.00 due prior to the date of the hearing. Debtors have paid \$77,327.26 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors responded that due to some unanticipated plumbing issues, they fell behind on Plan payments. Debtors state they will be able to become current on Plan payments prior to the hearing. Dckt. 71, Debtors' Declaration.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$24,975.97, with another Plan payment in the amount of \$10,371.06 due prior to the date of the hearing. Debtor has paid \$320,086.21 into the plan to date.

**DEBTORS' LATE RESPONSE:**

Debtors request that the court consider their late filed response to the Trustee's Motion to Dismiss. Debtors operate a patient care facility and Debtors claim that the necessary licence to operate the facility was delayed. Debtors state that the facility is now licenced and they will be able to make up the delinquent payments by February 25, 2019.

**DISCUSSION:**

At the hearing -----.

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 16, 2018. Twenty-eight days notice is required. That requirement is 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).

**The hearing on the Motion to Dismiss is continued to 9:00 a.m. on February 20, 2019.**

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

A. Debtor's Plan requires 65 months to complete. The Plan provides for 100% payment to the unsecured creditors; however, claims filed by creditors exceed what was scheduled by approximately \$17,000.00.

Debtor's counsel responds that the Plan will not exceed 60 months if Debtor prevails in an Objection to Claim No. 9-1. Debtor's counsel asserts that the claim does not provide sufficient documentation and/or may have already been paid. If Debtor does not prevail in its Objection to Claim then Debtor will file a modified plan. (Dckt. 46).

The November 14, 2018 hearing was continued to permit the Debtor to resolve the Objection to Claim.

The Objection to Claim was set for hearing on December 18, 2018, however, service was improper and the motion was denied. Dckt. 61. Debtor filed another Objection to the same claim and the hearing on that Objection is set for February 12, 2018. Dckt. 56.

At the hearing -----.

The hearing is continued to allow the Debtor to prosecute the claim objection.

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 hearing on the Motion to Dismiss is continued to **9:00 a.m. on February 20, 2019.**

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$4,790.01, with another Plan payment in the amount of \$3,197.00 due prior to the date of the hearing. Debtors have paid \$32,973.99 into the plan to date.

**DEBTORS' RESPONSE**

Debtors' attorney states that Debtors fell behind in payments due to unanticipated expenses and anticipate filing a modified plan prior to the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current or file a confirmable modified plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**No 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.

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 14, 2018. 14 days' notice is required. That requirement was met.

The Motion to Convert was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing, -----  
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**The Motion to Convert the Chapter 13 Bankruptcy Case to a Case under Chapter 7 is ~~xxxx, and the case is converted to one under Chapter 7.~~**

This Motion to Convert the Chapter 13 bankruptcy case of Jeffrey Tod Macilraith ("Debtor") has been filed by the Chapter 13 Trustee (Movant). Movant asserts that the case should be dismissed or converted based on the following grounds:

A. Debtor had until November 28, 2018 to file a Chapter 13 Plan and Form 122C-1 Statement of Monthly Income. Dckt. 67. The Debtor did not comply with this requirement set forth in the court's notice after this cases conversion from a Chapter 7 to a Chapter 13 on November 14, 2018.

#### DEBTOR'S OPPOSITION

Debtor did not filed an opposition.

#### APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In*

*re Ho*), 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause . . . .

11 U.S.C. § 1307(c). The court engages in a “totality of circumstances” test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. *Drummond v. Welsh (In re Welsh)*, 711 F.3d 1120, 1123 (9th Cir. 2013) (citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated “for cause” grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing *In re Leavitt*, 171 F.3d at 1224).

## DISCUSSION

The court notes that on December 17, 2018 Debtor filed a Plan and Amended Schedules. Dckts. 97; 98. However, the Plan was not filed in connection with a Motion to Confirm.

Here, Debtor converted the case to one under Chapter 13 when the Chapter 7 Trustee was attempting to sell property of the bankruptcy estate. *See* Motion for Turnover of Property of Estate, Dckt. 37, for the Corino Way real property. The Motion states that the Debtor stated the value of the Property to be \$296,793, that it was subject to a lien in the amount of \$176,735, and no exemption was claimed.

With the assistance of Debtor’s current counsel (previously attempting to prosecute this case in pro se), Debtor lists the Corino Way Property as having a value of \$475,793 (Amended Schedule A/B, Dckt. 98 at 4), Debtor claiming a \$100,000 exemption therein pursuant to California Code of Civil Procedure § 705.950 (Amended Schedule C, *Id.* at 10), and securing a claim in the amount of (\$176,793) (Schedule D, Dckt. 21 at 16). Based on those numbers, there would be \$199,000 in gross sales proceeds for creditors, which would be reduced to \$161,000 (assuming 8% costs of sale).

At the hearing ----.

Cause **xxxx** to convert this case pursuant to 11 U.S.C. § 1307(c). The Motion is **xxxx**.

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 Convert 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 Convert is **xxxx**.

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**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:**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on November 14, 2018.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$249.00 due on October 25, 2018).

<b>The court's decision is to set the Order to Show Cause for further hearing at 9:00 a.m. on <span style="color: red;">xxxxxxxxxx</span>, 2019.</b>
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The court's docket reflects that the default in payment which is the subsection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$249.00.

This case was commenced by Debtor as a Chapter 7 case in which he sought to exempt \$296,793 in equity in his residence. When challenged on this by the Chapter 7 trustee, Debtor obtained counsel and had the case converted to one under Chapter 13, promising to pay creditors through a Chapter 13 Plan.

Debtor has failed to prosecute the Chapter 13 case, leading to it being converted back to Chapter 7. This could demonstrate a lack of financial ability by the Debtor, even to pay the modest \$249 filing fee. Or it may demonstrate a more nefarious scheme to try and abuse the bankruptcy laws and creditors. Debtor may be hoping that by failing to pay the filing fee, he can get the case dismissed and then have his way with creditors, diverting his non-exempt assets away from creditors.

Giving the Debtor the benefit of the doubt and assuming he just lacks the financial ability to prosecute a Chapter 13 case and find even \$249 to keep his Chapter 7 case alive, the Debtor shall show cause why the court should not order the Chapter 7 Trustee to pay, from the Debtor's exempt portion of the proceeds from the sale of the Corino Way Property, the \$249 filing fee. This will protect Debtor's discharge and allow him to obtain the relief he sought in the filing of the Chapter 7 case.

If Debtor asserts that the filing fee should not be paid from his exempt portion of the filing fees, Debtor shall show cause why the court does not issue an order denying Debtor's discharge for failing to pay the required Chapter 7 filing fee in this case. The Debtor shall show why his filing of the case, the grossly overstated exemption of \$296,793, his quickly seeking conversion of the case to Chapter 13 when called on the overstated exemption, and his failure, after having obtained the assistance of counsel, to prosecute the Chapter 13 case does not manifest bad faith and the failure to comply with the orders of the court.

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 hearing on the Order to Show Cause is **xxxxxxxxxx**

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on September 12, 2018. Twenty-eight days notice is required. That requirement is met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtors 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$22,654.03, with another Plan payment in the amount of \$7,635.39 due prior to the date of the hearing. Debtors have paid \$96,858.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors respond that they believe they will be able to cure the delinquency as a result of pending request for loan modification. (Dckt. 88, Debtor's Declaration).

**DISCUSSION:**

At the October 9, 2018 hearing the Trustee concurred that a continuance was appropriate.

No motion to approve a loan modification has been filed by Debtors.

At the hearing ....

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made under 11 U.S.C. § 1307. 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.

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**No 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.

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 24, 2018. 14 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). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

**The court's decision is to xxxx the Motion to Dismiss.**

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

A. Debtor is delinquent in plan payments in the amount of \$562.00, with one payment in the amount of \$562.00 due prior to the date of hearing. Debtor has paid \$0.00 into the plan to date.

B. Debtor did not attend the First Meeting of Creditors on October 4, 2018. The Meeting was continued to November 8, 2018.

C. Debtor did not provide the Trustee with evidence to support that his most recent tax return has been filed or that filing was not required.

D. Debtor did not provide the Trustee with 60 days of employer payment advices.

**NOVEMBER 14, 2018 HEARING:**

At the November 14, 2018 hearing Debtor was granted a continuance to allow for the Debtor to resolve issues regarding the delinquency. Debtor's counsel stated that Debtor has attempted to make two payments. The first payment by money order that was returned, and the second by TSF.

## **DEBTOR'S SUPPLEMENTAL RESPONSE:**

Debtor's counsel responded by stating that Debtor has:

- A. Attended the continued Meeting of Creditors held on November 8, 2018.
- B. Provided the Trustee with copies of Debtor's most recent tax return.
- C. Provided the Trustee with copies of Debtor's employer payment advices.

## **TRUSTEE'S SUPPLEMENT RESPONSE:**

The Trustee responded that the original basis for the Motion to Dismiss have been resolved. However, the Trustee identified new grounds on which to dismiss the case:

A. Debtor does not have a Plan pending. There has been no new plan filed since the court sustained the Trustee's Objection to Confirmation on November 20, 2018. Dckt. 36.

B. The Trustee asserts that the tax returns provided by the Debtor raise new concerns regarding Debtor's stated income. The Trustee states that Debtor's income is not clear because there are inconsistencies between the tax returns and Debtor's Schedules. Additionally, Debtor changed the number of dependents from 2 to 7 without any explanation coupled with an increase in living expenses.

Debtor has added two grandchildren, a son, and a daughter in law as "dependants." Amended Schedule J, Dckt. 42 at 7. No income is shown on Amended Schedule I for the adult son and adult daughter in law. Amended Schedule I, *Id.* at 5-6. Though listing her husband as a dependant, no income information is provided for husband - no Social Security, no wages, no retirement, no benefits.

**At the hearing -----.**

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 **xxxx.**

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**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.**

-----  
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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$600.00, with another Plan payment in the amount of \$600.00 due prior to the date of the hearing. Debtor has paid \$3,000.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' attorney states that Debtor fell behind in payments due required maintenance on his residence as a result of ongoing civil suits. Debtor's attorney states that Debtor, with the assistance from counsel, will be current before the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$2,169.00, with another Plan payment in the amount of \$725.00 due prior to the date of the hearing. Debtors have paid \$11,381.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' attorney states that an opposition was filed to allow additional time to allow the Debtor to file a modified plan or become current in plan payments.

**DISCUSSION:**

In the absence of evidence that debtors can become current or file a confirmable modified plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.

**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)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on December 18, 2018. 14 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). Debtor, creditors, the Chapter 13 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 offer 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. 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 Debtors' case based on the following:

A. Debtors are delinquent in plan payments in the amount of **\$3,600.00, with** one payment in the amount of \$3,600.00 due prior to the date of hearing. Debtors have paid \$3,600.00 into the plan to date.

B. Debtors have not filed an amended plan since the Trustee's Objection to Confirmation was Sustained on December 4, 2018. Dckt. 18.

**At the hearing -----.**

In the absence of evidence that debtors will be able to cure the delinquency and/or filed an amended plan, cause exists to dismiss the 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.

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**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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$3,038.74, with another Plan payment in the amount of \$1,647.27 due prior to the date of the hearing. Debtor has paid \$15,446.83 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's attorney states that an opposition was filed to allow additional time to allow the Debtor to become current in plan payments.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$4,361.12, with another Plan payment in the amount of \$4,271.53 due prior to the date of the hearing. Debtor has paid \$12,725.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' attorney opposes the Motion to Dismiss claiming the Debtor "mixed up the 1<sup>st</sup> payment" and will be current by the hearing date.

**DISCUSSION:**

**At the hearing-----.**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$5,462.27, with another Plan payment in the amount of \$5,462.27 due prior to the date of the hearing. Debtor has paid \$75,972.89 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's attorney responds that Debtor had unanticipated car expenses last month causing the delinquency. Debtor's attorney claims Debtor will be current by the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$7,286.49, with another Plan payment in the amount of \$3,158.83 due prior to the date of the hearing. Debtor has paid \$57,383.77 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor responds that he will attempt to become current with plan payments for file an amended plan prior to the hearing. Dckt. 109, Debtor's Declaration.

**DISCUSSION:**

In the absence of evidence that debtors can become current or has filed a confirmable amended plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$1,800.00, with another Plan payment in the amount of \$600.00 due prior to the date of the hearing. Debtor has paid \$6,300.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor responds that she will need to file a modified plan but the intention is that the modified plan will require IRS consent. Dckt. 93, Debtor Declaration. Debtor states that the IRS Contact Person has not been available since December 15, 2018.

**DISCUSSION:**

In the absence of evidence that debtors can become current or has filed a confirmable amended plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$6,684.00, with another Plan payment in the amount of \$3,342.00 due prior to the date of the hearing. Debtor has paid \$16,710.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor opposes the Motion to Dismiss; however, the response states that Debtor has no basis to oppose the motion.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$1,170.00, with another Plan payment in the amount of \$585.00 due prior to the date of the hearing. Debtor has paid \$16,815.00 into the plan to date.

**DEBTOR'S RESPONSE:**

Debtor responds that she will not be able to cure the delinquency because she does not have sufficient income to file an amended plan. As such, Debtor states that she intends to convert her case to one under Chapter 7.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$6,648.55, with another Plan payment in the amount of \$3,825.11 due prior to the date of the hearing. Debtors have paid \$209,975.57 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' counsel responds that Debtors will be current by the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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, Debtors Attorney, and Office of the United States Trustee on December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$5,336.16, with another Plan payment in the amount of \$2,640.91 due prior to the date of the hearing. Debtor has paid \$98,895.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor paid \$5,800.00 on December 31, 2018 through the Trustee's online payment portal and has scheduled payments of \$1,285.00 on January 4, 2019 and \$1,000.00 on January 5, 2019. Debtor's counsel states that these payments should cure the delinquency prior to the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$1,204.00, with another Plan payment in the amount of \$602.00 due prior to the date of the hearing. Debtors have paid \$4,816 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors respond that they will cure the delinquency prior to the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**No 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.

**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)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on December 18, 2018. 14 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). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<b>The court's decision is to <span style="color: red;">xxxx</span> the Motion to Dismiss and <span style="color: red;">xxxx</span> the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtors' case based on the following:

A. Debtors did not appear for the First Meeting of Creditors held on December 13, 2018. The Meeting was continued to January 10, 2019 at 11:00 a.m.

B. Debtors have not provided the Trustee with a copy of their most recent pre-petition tax return or a statement that none exists as required under 11 U.S.C. § 521(e)(2)(A)(1).

C. Debtors have not properly served their amended plan that was filed on October 17, 2018 and no motion to confirm is pending.

**DEBTORS' RESPONSE:**

Debtors state that they did not attend the First Meeting Creditors over fears of Ms. Leitheiser might lose her job. The Debtors state they will attend the continued Meeting. Debtors state that since the Trustee filed his Motion to Dismiss, the required tax return information has been provided, save for the cover page of Ms. Leitheiser's 2017 Federal Income Tax Return.

Debtors dispute the Trustee's contention that an amended plan was filed on October 17, 2018 and contend that Debtors are seeking to confirm the Plan served on all scheduled creditors on October 29, 2018. Dckts. 15 and 16. The court notes that on December 28, 2018, a Notice of Withdrawal of the October 17, 2018 Plan was filed.

At the hearing -----.

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 **xxxx** and the case is **xxxx**.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 12, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors' Plan requires that the Plan be completed within (60) months. The Trustee's calculations have the Plan completing in (77) months, exceeding the maximum amount of time allowed under 11 U.S.C. § 1322(d). The Trustee notes that the filed claims to be paid through the plan were \$14,935.69 greater than scheduled.

**DEBTORS' RESPONSE:**

Debtors' counsel disputes the Trustee's calculations and states that the matter can be resolved before the hearing. Debtor offers no explanation as to how the Trustee's calculation is incorrect, but merely states that the Debtor's unstated analysis "does not coincide with the trustee's computation." Opposition, p. 1:20-21; Dckt. 50.

**DISCUSSION:**

**At the hearing -----.**

In the absence of evidence that debtors can complete their Plan within the proscribed (60) months

required under 11 U.S.C. § 1332(d), cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$4,857.16, with another Plan payment in the amount of \$2,428.58 due prior to the date of the hearing. Debtor has paid \$33,955.74 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor will modify the plan in order to cure the delinquency prior to the hearing.

**DISCUSSION:**

In the absence of evidence that debtors can become current and/or file and serve a confirmable modified plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$468.00, with another Plan payment in the amount of \$234.00 due prior to the date of the hearing. Debtor has paid \$3,510.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's responds that he will cure the delinquency prior to the hearing. Dckt. 34, Debtor Declaration.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 12, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$1,843.42, with another Plan payment in the amount of \$3,090.00 due prior to the date of the hearing. Debtors have paid \$13,606.58 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtors anticipate filing an amended plan. However, Debtors are not able to file an amended plan until their request for loan modification is resolved. A motion to approve loan modification is set for hearing on January 29, 2019.

**DISCUSSION:**

**At the hearing ----.**

In the absence of evidence that debtors can become current and/or file and serve a confirmable modified plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$4,650.00, with another Plan payment in the amount of \$2,325.00 due prior to the date of the hearing. Debtors have paid \$49,280.89 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors respond that they will file, set, serve, and be current under a modified plan before the hearing on this matter. Dckt. 221, Debtor Declaration.

**DISCUSSION:**

In the absence of evidence that debtor can become current and/or a confirmable modified plan has been filed, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 Debtors, Debtors' Attorney, and Office of the United States Trustee on September 21, 2018. Twenty-eight days notice is required. That requirement is 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:

A. Debtors appear to be delaying confirmation. The Trustee's Objection to Confirmation to Debtor's Plan filed on June 24, 2018 (Dckt. 5) was sustained on August 28, 2018. The court notes that Debtors have subsequently filed two amended plans one on August 10, 2018 and the other on October 5, 2018. Dckts. 20; 33. However, the Debtors did not file motions to confirm either of the plans.

At the November 14, 2018 hearing, the Trustee reported that Debtors have been working with the Trustee's Office to get a new plan on file. The court continued the hearing until January 9, 2019.

The court notes that an Amended Plan was filed on January 6, 2019. Dckt. 36. It does not appear that the Plan have been served on all required parties nor has a motion to confirm the plan been filed.

**At the hearing -----.**

In the absence of evidence that debtors have served a motion to confirm the amended plan, cause exists to dismiss this case as Debtors are not diligently prosecuting their 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.

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**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.**

-----  
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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$401.02, with another Plan payment in the amount of \$135.00 due prior to the date of the hearing. Debtors have paid \$3,918.98 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor will cure the delinquency prior to the hearing. Dckt. 64.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$2,535.31, with another Plan payment in the amount of \$1,867.55 due prior to the date of the hearing. Debtors have paid \$66,458.54 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor will file a Modified Plan and a Motion to Confirm on or before the hearing date. Dckt. 73.

**DISCUSSION:**

In the absence of evidence that debtor can become current and/or has filed a confirmable modified Plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**No 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to xxxx the Motion to Dismiss and xxxx the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$1,788.25, with another Plan payment in the amount of \$2,854.25 due prior to the date of the hearing. Debtors have paid \$15,337.25 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' counsel responds that Debtors made a payment of \$2,000.00 that posted on December 10, 2018. Dckt. 22. Debtors' counsel states that Debtors were involved in a automobile accident and, after a \$1,000.00 deductible, Debtors' have a claim for payment of \$5,227.00 from CSAA. Debtors' counsel states that CSAA will pay over to the Trustee the net proceeds of the claim. Debtors' counsel states that the Trustee shall use the funds to bring the Debtors current in plan payments and that this should occur no later than January 24, 2019.

**DISCUSSION:**

At the hearing -----.

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 **XXXX** and the case is **XXXX**.

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**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 December 11, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$3,667.20, with another Plan payment in the amount of \$3,172.90 due prior to the date of the hearing. Debtors have paid \$32,167.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor responds that he was not aware that his Plan payments increased by \$178.00. Dckt. 77, Debtor Declaration. Debtor also responds that he has made his November payment and the \$672.20 that was delinquent on the prior month's payments. Additionally, Debtor states that he will make is December payment.

**DISCUSSION:**

In the absence of evidence that debtor can become current and/or has filed a confirmable modified Plan, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.**

-----  
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 December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$2,171.00, with another Plan payment in the amount of \$675.00 due prior to the date of the hearing. Debtors have paid \$4,615.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that she has been unable to reach the Debtor prior to the deadline to respond to the Trustee's Motion to Dismiss. Dckt. 71.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$5,625.65, with another Plan payment in the amount of \$1,969.31 due prior to the date of the hearing. Debtors have paid \$50,942.98 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor will be current in Plan payments prior to the hearing. Dckt. 38.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$6,915.00, with another Plan payment in the amount of \$6,915.00 due prior to the date of the hearing. Debtors have paid \$71,755.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor's father-in-law was recently diagnosed with cancer resulting in unanticipated travel and medical expenses. Dckt. 100. Debtor's counsel states that despite he additional costs, Debtor will be able to cure the delinquencies no later than January 18, 2019 and requests additional time to do so.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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Thru #40

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**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:**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on November 29, 2018.

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 November 26, 2018).

<b>The court's decision is to sustain the Order to Show Cause.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.

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**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:  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on November 29, 2018.

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 25, 2018).

<b>The court's decision is to sustain the Order to Show Cause.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.

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**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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$2,008.73, with another Plan payment in the amount of \$1,671.26 due prior to the date of the hearing. Debtor has paid \$51,306.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that Debtor's daughter, Vanessa Jors, lost a money order of \$1,000.00 that was supposed to be applied to Debtor's Plan payment. Vanessa Jors submitted a signed declaration attesting that she lost the money order and is still attempting to obtain a replacement money order. Dckt. 90. Debtor's counsel states that Debtor will only be able to make a partial payment if the money order replacement is not resolved prior to the hearing.

**DISCUSSION:**

**At the hearing ----.**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan

payments have not been made. 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.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$1,040.00, with another Plan payment in the amount of \$575.00 due prior to the date of the hearing. Debtor has paid \$25,070.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors respond that there have been increases to their mandatory monthly expenses, including rent and insurance. Dckt. 93, Debtor William John Herkel Declaration. Debtors also state that they believed they were current on plan payments and anticipate being current prior to the hearing. *Id.*

**DISCUSSION:**

At the hearing ----.

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 August 3, 2018. Twenty-eight days notice is required. That requirement is 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:

A. Debtor is delinquent in plan payments in the amount of \$9,000.00, with another Plan payment in the amount of \$3,000.00 due prior to the date of the hearing. Debtor has paid \$89,400.00 into the plan to date.

**DEBTOR'S RESPONSE:**

Counsel for the Debtor responds that he has been unable to contact the Debtor.

**SEPTEMBER 5, 2018 HEARING:**

On September 5, 2018, the hearing was continued to allow for additional time for counsel for the Debtor to contact the Debtor and cure the delinquency.

**AMENDED RESPONSE:**

On November 2, 2018, Debtor's counsel states, without a declaration, that Debtor has been attempting and continues to attempt to refinance his home in order to "pay off his bankruptcy." Dckt. 137.

Counsel for Debtor also states that Debtor hopes that the refinancing will be approved prior to the hearing or Debtor will become current with his plan payments.

**NOVEMBER 14, 2018 HEARING:**

At the November 14, 2018 hearing, the Trustee reported that the delinquency remains. Debtor's counsel reported that Debtor can obtain a loan from his pension account to complete this plan, which is now more than four years old. The Trustee concurred in the continuance.

**RULING:**

At the hearing -----.

In the absence of evidence that debtors can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. Twenty-eight days notice is required. That requirement is 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 Debtors' case based on the following:

A. Debtors are delinquent in plan payments in the amount of \$341.00, with another Plan payment in the amount of \$155.00 due prior to the date of the hearing. Debtors have paid \$11,655.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtors' counsel responds that Debtors are attempting to bring their payments current and will only have five more remaining plan payments to complete the plan. Dckt. 101.

**DISCUSSION:**

At the hearing ----.

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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 August 6, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and the case is dismissed.**

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

A. Debtor is delinquent in plan payments in the amount of \$6,152.76, with another Plan payment in the amount of \$3,414.29 due prior to the date of the hearing. Debtor has paid \$143,310.00 into the plan to date.

**DEBTOR'S RESPONSE:**

Debtor's counsel responds, without a declaration providing evidence of the facts alleged, that she is attempting to secure a loan modification with Wells Fargo or in the alternative will propose a modified plan in the absence of a loan modification. In support of this, Debtor submitted unauthenticated written communications with Wells Fargo dated August 21, 2018.

**PRIOR HEARINGS:**

At the September 5, 2018 a hearing was held. The court continued the hearing to October 10, 2018. At the October 10, 2018 hearing, the Trustee concurred with the request for a further continuance, taking into consideration the amount that the Debtor has paid into the this plan and the years of performance under the plan.

## **DEBTOR'S SUPPLEMENTAL RESPONSE:**

On January 3, 2019, Debtor's counsel filed a supplemental response. Dckt. 155. Debtor's counsel states that Debtor has had some unanticipated expenses during the life of the Plan that caused the missed Plan payments. Debtor's counsel does not provide additional specifics or statements from Debtor regarding the missed payments. Debtor's counsel also state that Debtor has not yet filed a new plan because Debtor came down with the flu. Debtor's counsel anticipates having a new plan filed prior to the hearing.

## **RULING:**

In the absence of evidence that debtor obtained a loan modification or filed a confirmable Amended Plan, cause exists to dismiss this case because plan payments have not been made. 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.

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**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 December 10, 2018. Twenty-eight days notice is required. That requirement is 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).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$8,783.84, with another Plan payment in the amount of \$4,549.23 due prior to the date of the hearing. Debtors have paid \$27,610.00 into the plan to date.

**DEBTORS' RESPONSE:**

Debtor's counsel responds that he has been unable to reach the Debtor prior to the deadline to respond to the Trustee's Motion to Dismiss. Dckt. 21.

**DISCUSSION:**

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. 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.

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**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.

**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)(C).**

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Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 26, 2018. The court set the hearing for January 9, 2019. Dckt. 36.

The Motion to Impose the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, Creditors, the Chapter 13 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 offer 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. At the hearing -----

<p><b>The Motion to Impose the Automatic Stay is granted.</b></p>
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Aren Jackson ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) imposed in this case. This is Debtor's third bankruptcy petition pending in the past year with the prior two cases having been dismissed. Debtor's prior bankruptcy cases (Nos. 18-22413 and 18-23165) were dismissed on May 11, 2018, and November 28, 2018, respectively. *See* Order, Bankr. E.D. Cal. No. 18-22413, Dckt. 9; Order, Bankr. E.D. Cal. No. 18-23165, Dckt. 49. Therefore, pursuant to 11 U.S.C. § 362(c)(4)(A)(i), the provisions of the automatic stay did not go into effect upon Debtor filing the instant case.

Here, Debtor states that the instant case was filed in good faith and explains that the previous cases were dismissed for failure to timely file documents. Debtor's attorney states that the delay in filing the required documents is mainly his fault due to staffing issues within his office. Dckt. 15.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions imposed if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(4)(B). The subsequently filed case is presumed to be filed in bad faith if two or more of Debtor's cases were both pending within the year preceding filing of the instant case. *Id.* § 362(c)(4)(D)(i)(I). The presumption of bad

faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(4)(D).

Debtor has sufficiently rebutted the presumption of bad faith under the facts of this case and the prior cases for the court to impose the automatic stay.

The Motion is granted, and the automatic stay is imposed for all purposes and parties, unless terminated by operation of law or further order of this court.

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 Impose the Automatic Stay filed by Aren Jackson (“Debtor”) 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 is granted, and the automatic stay is imposed pursuant to 11 U.S.C. § 362(c)(4)(B) for all purposes and parties, unless terminated by operation of law or further order of this court.

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## FINAL RULINGS

48. [17-26999](#)-C-13 RADOSLAV DONKOV AND MOTION TO DISMISS CASE  
[DPC-1](#) SVETLANA DONKOVA 12-10-18 [62]  
David Ritzinger

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$79 due by 11/19/2018). The court docket reflects that on November 29, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$5,343.46, with one payment in the amount of \$1,908.93 due prior to the date of hearing. Debtors have paid \$35,511.29 into the plan to date.

The court finds the Trustee's objections are valid. As the debtors are delinquent and have not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.

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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$3,019.12, with one payment in the amount of \$1,504.78 due prior to the date of hearing. Debtor has paid \$3,000.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 14, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$811.29, with one payment in the amount of \$811.29 due prior to the date of hearing. Debtor has paid \$811.29 into the plan to date.

B. Debtor did not appear to be examined at the Meeting of Creditors held on October 11, 2018 or the continued hearing held on November 8, 2018.

The Trustee flags for the court that according to the petition the Debtor lives in Paradise California and may have lost her residence in the Camp Fire. However, the Trustee notes that the issues raised by the Trustee occurred prior to the Camp Fire.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 November 6, 2018. 28 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.

<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:

A. Debtor has not served the Plan on all necessary parties, nor has the Debtor set a hearing to confirm the filed Plan. The Trustee notes that the Plan filed by the Debtor utilizes the incorrect form. Moreover, the Trustee states that the Plan does not appear to be confirmable because the Plan does not propose to pay any claims, the Plan proposes an insufficient time period, and the Plan propose \$900.00 monthly payments despite the Debtor listing negative income.

B. Debtor has not provided the Trustee with all required tax transcript information.

The court finds the Trustee's objections are valid. As the debtor is not prosecuting his Plan and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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56. [18-25725](#)-C-13 YOLANDA DANNER  
Michael Banavides

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
12-17-18 [\[18\]](#)

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$73 due by 12/10/2018). The court docket reflects that on December 18, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$73 due by 11/8/2018). The court docket reflects that on December 4, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.

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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 3, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$4,268.76, with one payment in the amount of \$2,134.38 due prior to the date of hearing. Debtor has paid \$0.00 into the plan to date.

B. Debtor filed a Plan on October 18, 2018 but has not served the Plan on the necessary parties or filed a motion to confirm the plan. The case has been pending since October 25, 2018.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 11, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$8,806.75, with one payment in the amount of \$6,803.07 due prior to the date of hearing. Debtor has paid \$24,700.00 into the plan to date.

**DEBTOR'S RESPONSE:**

Debtor filed a Non-Opposition to the Trustee's Motion to Dismiss. Dckt. 50.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$5,095.80, with one payment in the amount of \$3,215.10 due prior to the date of hearing. Debtors have paid \$20,625.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$79 due by 11/1/2018). The court docket reflects that on November 9, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 11, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$4,340.00, with one payment in the amount of \$1,480.00 due prior to the date of hearing. Debtors have paid \$10,160.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$3,990.00, with one payment in the amount of \$1,345.00 due prior to the date of hearing. Debtors have paid \$20,270.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$1,972.28, with one payment in the amount of \$1,850.00 due prior to the date of hearing. Debtor has paid \$31,171.72 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$2,715.00, with one payment in the amount of \$2,715.00 due prior to the date of hearing. Debtor has paid \$46,155.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$5,966.00, with one payment in the amount of \$5,966.00 due prior to the date of hearing. Debtors have paid \$92,290.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$79 due by 11/15/2018). The court docket reflects that on November 30, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$77 due by 10/26/2018). The court docket reflects that on November 8, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (installment payments for the filing fee, \$77 due by 12/11/2018). The court docket reflects that on December 27, 2018, the Debtor 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.

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" 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 Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Final Ruling:** No appearance at the January 9, 2019 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 December 11, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtor is delinquent in plan payments in the amount of \$9,750.00, with one payment in the amount of \$3,500.00 due prior to the date of hearing. Debtors have paid \$44,250.00 into the plan to date.

#### **DEBTORS NON-OPPOSITION:**

Debtors' counsel filed a statement of Non-opposition to the Trustee's Motion to Dismiss. Dckt. 82.

#### **DISCUSSION:**

The court finds the Trustee's objections are valid. As the debtors are delinquent and have not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 11, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$8,929.99, with one payment in the amount of \$2,989.51 due prior to the date of hearing. Debtors have paid \$46,859.65 into the plan to date.

The court finds the Trustee's objections are valid. As the debtors are delinquent and have not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 7, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$214.00, with one payment in the amount of \$107.00 due prior to the date of hearing. Debtors have paid \$2,675.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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81. [18-25081](#)-C-13 NDEYE FALL  
Richard Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
11-16-18 [\[51\]](#)

DEBTOR DISMISSED: 11/19/2018

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.

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The Chapter 13 case having been dismissed November 19, 2018, **the Order to Show Cause is dismissed as moot, and the matter is removed from the calendar.**

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**Final Ruling:** No appearance at the January 9, 2019 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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 10, 2018. 28 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 court's decision is to grant the Motion to Dismiss and dismiss the case.**

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

A. Debtors are delinquent in plan payments in the amount of \$15,655.79, with one payment in the amount of \$3,056.04 due prior to the date of hearing. Debtor has paid \$101,580.00 into the plan to date.

The court finds the Trustee's objections are valid. As the debtor is delinquent and has not complied with all of the requirements under 11 U.S.C. § 1307, 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.

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83. [17-27895](#)-C-13  
[DPC-2](#)

THOMI MANZANO  
Michael McEnroe

MOTION TO DISMISS CASE  
12-11-18 [\[76\]](#)

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**Final Ruling:** No appearance at the January 9, 2019 hearing is required.  
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The Chapter 13 case having been dismissed on January 3, 2019, **the Motion to Dismiss is dismissed as moot, and the matter is removed from the calendar.**

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