

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

January 17, 2024 at 9:00 a.m.

1.	<u>23-23293</u> -E-13	MYESHA PAYNE Matthew DeCaminda	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 12-27-23 <u>[34]</u>
	1 thru 2		

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, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 27, 2023. The court computes that 21 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on December 21, 2023.

The Order to Show Cause is sustained, and the case is dismissed.

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

Final Ruling

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 27, 2023. The court computes that 51 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on November 21, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Cecelia Ann Dixon (“Debtor”), is \$2,700 delinquent in plan payments. Trustee received last payment on October 27, 2023. Debtor will need to have paid \$4,900 to bring the Plan current before the Hearing date.

Docket 23. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 25.

DEBTOR’S REPLY

Debtor filed a Reply, supporting Declaration, and Exhibits on December 14, 2023. Dockets 27,-29. Debtor states the delinquency will be cured prior to the hearing date. Debtor asserts she fell behind in payments when her plan payment stepped up after her 401K loan ended. Docket 27 at 1:18-19. Debtor submitted evidence of payment (Screen shot of ACH Debtor payment to TFS in the amount of \$2,700 on December 11, 2023. Exhibit A, Docket 29.

This is the first ever Motion to Dismiss filed in Debtor’s case. Docket 27 p. 1:20-22.

DISCUSSION

The record shows in Debtor’s authenticated Exhibit A that the delinquency has been cured in full prior to the Hearing. Exhibit A, Docket 29. At the hearing, **XXXXXXXXXX**

The court shall issue an 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, David Cusick (“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.

4. [20-22499-E-13](#) **EDGAR/DULIAMARIA AGUILAR** **MOTION TO DISMISS CASE**
[DPC-3](#) **Paul Bains** **11-20-23 [76]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Edgar and Duliamaria Aguilar (“Debtor”), is delinquent \$9,303.55 in plan payments. Debtor will need to have paid \$18,613.77 to bring the Plan current by the Hearing date.

Docket 76. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 78.

DEBTOR’S RESPONSE

Debtor filed a Response on January 3, 2024. Dckt. 80. Debtor also filed a supporting Declaration and exhibits on January 11, 2024. Decl., Docket 82; Exhibits, Docket 83. Debtor states the delinquency will be cured prior to the hearing date. Debtor states that \$9,000 will be remitted on January 3, 2024, and that the remaining balance of \$9,613.77 will be remitted prior to the hearing date. Debtor's Exhibits and Declaration provide evidence (copy of a Moneygram receipt) that the payment \$9,000 payment have indeed been made. Debtor also provides copy of a Cashier's Check dated January 8, 2024, and USPS Priority Mail Express delivery documents for the \$9,613.77 payment.

DISCUSSION

Delinquent

Debtor is \$9,303.55 delinquent in plan payments, which represents multiple months of the \$4,655.11 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor has informed the court that two payments will be made prior to the hearing date, which will cure the delinquency. Debtor's Declaration and Exhibits show that the payment has been sent. Decl., Docket 82 p. 1:22-27. At the hearing, **XXXXXXXXXX**

The court shall issue an 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, David Cusick ("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.

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Dennis Samuel Cobb and Robin Karen Cobb (“Debtor”), is \$4,145.86 delinquent in plan payments.

Docket 38. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 40.

DEBTOR’S RESPONSE

Debtor filed a Response on January 3, 2024. Dckt. 44. Debtor admits to the delinquency, but informs the court that Debtor has filed a Modified Plan and Motion to Confirm the Modified Plan that will cure the delinquency. *See* Modified Plan, Docket 48.

DISCUSSION

Delinquent

Debtor is \$4,145.86 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Plan and Motion to Confirm Filed

Debtor has filed a Modified Plan (Dckt. 48) and Motion to Confirm (Dckt. 46) to address the defaults. From the court’s preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 49) states personal knowledge testimony in support of the Motion to Confirm.

At the hearing, **XXXXXXX**

Given Debtor’s active prosecution of confirmation of a Plan, the Motion is denied 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, David Cusick (“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.

6. [23-22086-E-13](#) **RYAN GREENLAW** **MOTION TO DISMISS CASE**
[DPC-2](#) **Pro Se** **11-14-23 [28]**

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.

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

Sufficient 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 14, 2023. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Ryan Greenlaw (“Debtor”), is \$225 delinquent in plan payments.
2. Debtor has not proposed an amended Plan since this court sustained the Trustee’s Objection to Debtor’s previous Plan.
3. Debtor voluntarily filed this case to pay 100% to the unsecured creditors.

Docket 28. Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 30.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$225 delinquent in plan payments, which represents less than one month of the \$425 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on September 12, 2023. Docket 23. A review of the docket shows that Debtor has not filed a new plan or a motion to confirm a plan. Debtor offers no explanation for not filing an amended Plan.

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 14, 2023. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Eric and Stephanie Hutton (“Debtor”), is delinquent \$11,774.86 in plan payments.

Docket 96. Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 98.

DEBTOR’S RESPONSE

Debtor filed a Response on December 29, 2023. Dckt. 111. In their Response, Debtor informs the court that their Modified Chapter 13 Plan was confirmed on December 6, 2023, under which Debtor is completely current. *See* Order, Docket 107.

DISCUSSION

Debtor has confirmed a Modified Plan since Trustee lodged this Objection. The court confirmed that Modified Plan on December 6, 2023. Order, Docket 107. Debtor argues it is current, and will remain current, under this confirmed Modified Plan. At the hearing, **XXXXXXXXXX**

Based on the foregoing, cause does not exist to dismiss this case. The Motion is denied.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Robert Paul Hunter (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on June 7, 2023. Dckt. 167. Debtor states there are two adversary proceedings, Case No.’s 22-02087 and 22-02088, and they have motions for entry of default judgment for both the adversaries. Debtor expects the default judgment will allow them to avoid two deeds of trust and obtain a reverse mortgage to pay off the Plan. Declaration, Dckt. 168.

Debtor requests that the Trustee’s motion be denied or, in the alternative, continued for sixty (60) days to allow for resolution of the adversary proceedings.

DISCUSSION

Delinquent in Plan Payments

Debtor is \$4,172.00 delinquent in plan payments, which represents multiple months of the \$1,900.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case.

However, Debtor asserts that if they avoid the two deeds of trust subject to the adversary proceeding, they can obtain a reverse mortgage to complete the Plan. Debtor asserts the hearings on their Motions for Entry of Default Judgment are set for August 24, 2023. Upon review of the adversaries’ dockets, no motions for entry of default judgment have been filed or set for hearing.

REQUEST FOR CONTINUANCE

On August 20, 2023, Debtor filed a request for continuance, as Debtor’s Counsel was out of town and unavailable to attend the August 24, 2023 hearing. The court construes the document to be an *Ex Parte Motion* (as required by Fed. R. Bankr. P. 9013) to continue the hearing.

Upon consideration of the *Ex Parte Motion*, the court continues the hearing on the Motion to Dismiss to September 21, 2023 at 11:00 a.m.

The court has further continued the hearing to October 18, 2023 at 9:00 a.m. pursuant to prior order of this court (Order, Dckt. 176).

October 18, 2023 Hearing

The continued hearings on the Motions for Entry of Judgment in the two Adversary Proceedings are scheduled for November 2, 2023.

November 29, 2023 Hearing

On November 9, 2023, the court entered its orders in *Hunter v. Peachtree Group Trust*, 22-2088, and *Hunter v. Fillmore Group Trust*, 22-2087, granting the motions for entry of default judgments determining that the respective deeds of trust were of no legal force and effect.

The Debtor had previously lodged two proposed judgments with the court, and then included two additional proposed judgments with the latest versions of the Motions for Entry of Default Judgment. The court noted that the various forms contained slight differences, some of which could be attributed to clerical errors, or possibly a substantive difference. Some conflicts were created in language used.

Though the court attempted to craft two judgements, in light of the “particularity” of title companies and the Debtor’s need to get good clean judgments and clear title, the court requests that counsel for the Debtor prepare two final, clear, parallel language judgments for the two adversary proceedings, confirm that such are sufficient for title companies, and lodge such proposed judgments with the court.

At the hearing, the Trustee concurred that the hearing may be continued.

The court shall issue an 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, David Cusick (“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**.

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~denied without prejudice.~~

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Richard Cruz (“Debtor”), is delinquent in plan payments. In order to bring the Plan current by the date of this Hearing, Debtor will need to pay \$2,243.00.

Docket 55. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Objection. Decl., Docket 57.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Exhibit on December 20, 2023. Dockets 59, 60. Debtor states the delinquency has been cured as of December 19, 2023.

DISCUSSION

The record shows in Debtor’s unauthenticated Exhibits that the delinquency has been cured in full prior to the Hearing. Exhibit, Docket 60. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause does not exist to dismiss this case. The Motion is denied.~~

The court shall issue an 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, David Cusick (“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.~~

10. [20-20702-E-13](#) **VICKI/PAUL SCHLAHT** **MOTION TO DISMISS CASE**
[DPC-1](#) **James Keenan** **11-20-23 [28]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Vicki and Paul Schlaht (“Debtor”), is delinquent \$1,800 in plan payments. Prior to the hearing, two additional payments of \$900 will come due, meaning Debtor must pay \$3,600 to bring the Plan current.

DEBTOR’S RESPONSE

Debtor filed a Response on January 3, 2024. Dckt. 32. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is at least \$1,800 delinquent in plan payments, which represents multiple months of the \$900 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Eric and Sheri Dickson (“Debtor”), is delinquent in plan payments. Trustee received the last payment on September 5, 2023, so Debtor is delinquent \$5,344 in plan payments. Debtor will need to pay \$10,588 to bring the Plan current by the Hearing date.

Docket 71. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 72.

DEBTOR’S RESPONSE

Debtor filed a Response in the form of a Declaration from Debtor’s attorney, Matthew Gilbert, on January 2, 2024. Dckt. 75. Debtor’s attorney testifies that the delinquency has almost been entirely cured, and the final outstanding payment will be made prior to the hearing date. Decl., Docket 75 p. 2:7-15.

DISCUSSION

Delinquent

Debtor is \$5,344 delinquent in plan payments, which represents multiple months of the \$2,622 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor has submitted testimony that Debtor has almost caught up on plan payments entirely. Debtor further states that it will be caught up entirely by the Hearing date, but has not submitted evidence showing it has fully cured the delinquency. At the hearing, ~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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.~~

12. [20-22006-E-13](#) **BROOKS PARFITT** **MOTION TO DISMISS CASE**
[DPC-2](#) **Thomas Amberg** **11-20-23 [64]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Brooks Parfitt (“Debtor”), is delinquent in plan payments. Debtor is delinquent \$2,800 in plan payments, but in order to become current by the Hearing date, Debtor will need to pay \$13,600.

Docket 64. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 66.

DEBTOR’S RESPONSE

Debtor filed a Response on January 2, 2024. Dckt. 68. Debtor states he has almost caught up on plan payments entirely. Debtor further submits that he will be caught up entirely by the Hearing date, but has not submitted evidence showing he has fully cured the delinquency. At the hearing, ~~XXXXXXXXXX~~

DISCUSSION

Delinquent

Debtor is \$2,800 delinquent in plan payments, which represents approximately half of the \$5,400 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor has submitted testimony that Debtor has almost caught up on plan payments entirely. Debtor further states that he will be caught up entirely by the Hearing date, but has not submitted evidence showing he has fully cured the delinquency. At the hearing, ~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 11, 2023. The court computes that 37 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on December 4, 2023.

The Order to Show Cause is sustained, and the case is dismissed.

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

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.

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

Sufficient Notice Not Provided.

The court cannot determine whether notice has been properly provided as Movant has not complied with Local Bankruptcy Rule 7005-1, which requires the use of a specific Eastern District of California Certificate of Service Form (Form EDC 007-005). This required Certificate of Service form is required not merely to provide for a clearer identification of the service provided, but to ensure that the party providing the service has complied with the requirements of Federal Rule of Civil Procedure 5, 7, as incorporated into Federal Rules of Bankruptcy Procedure 7005, 7007, and 9014(c).

At the hearing, the Trustee requested that the hearing be continued in light of the Certificates of Service not yet appearing on the Docket. The Certificate of Service has been filed for the Continued Hearing on January 14, 2024. Cert. of Serv., filed December 1, 2023; Dckt. 94.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion).

The Motion to Dismiss is XXXX.

January 17, 2024 Hearing

On December 1, 2023, the Trustee filed a Certificate of Service for the Continued Hearing. Dckt. 94. The Notice of Hearing stated that the Debtor has until January 13, 2024, to file an opposition to the Motion to Dismiss.

At the Continued Hearing, XXXXXXX

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Tiesha Fisher (“Debtor”), is delinquent \$1,736.00 in Plan payments. The Debtor’s monthly payment is \$439.00. Prior to the hearing, another two plan payments will become due. Therefore, the Debtor will need to pay \$2,614.00 to bring the Plan current by the date of the hearing.
2. There is \$0.00 in non-exempt equity in the assets listed on Schedules A/B, leading the Trustee to believe that conversion to a Chapter 7 is not in the best interests of the creditors or the estate.

DISCUSSION

Delinquent

Debtor is \$1,736.00.00 delinquent in plan payments, which represents multiple months of the \$439.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The hearing is continued to allow the Trustee to document service of these pleadings and insure that Debtor has received the pleadings.

The court shall issue an 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, David Cusick (“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**.

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.

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

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 May 8, 2023. By the court's calculation, 44 days' notice was provided. 28 days' notice is required.

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

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

January 17, 2024 Hearing

Trustee filed a Status report on January 3, 2024, explaining to the court that the Plan remains \$11,193.95 delinquent with mortgage payments and arrearages of \$11,567.27 outstanding. Trustee requests the court grant this Motion. Debtor has not filed a response. At the hearing, **XXXXXXXXXX**

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, David Howerton ("Debtor"), is in default with respect to the plan.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on June 7, 2023. Dckt. 119. Debtor states a new plan will be filed.

DISCUSSION

Delinquent

Debtor is \$5,929.46 delinquent in plan payments, which represents multiple months of the \$2,040.86 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file a new Plan is not evidence that resolves this Motion.

The Trustee reports that the delinquency has increased. Debtor's counsel reports that the Debtor has passed away and his representative want to complete the Plan.

The Debtor Representative will make an immediate \$4,000 payment and are in the process of doing a refinance to pay off the Plan.

The parties agreed to a continuance.

July 19, 2023 Hearing

At the hearing, counsel for the Debtor's Successor Representative reported how they will now proceed with the refinance or liquidation of the property. The Chapter 13 Trustee concurred with the request for a continuance of the hearing on this Motion.

September 12, 2023 Hearing

At this hearing, counsel for the Successor Representative reports that counsel has the \$6,000.00 to fund the Plan, however there are two more payments that have come due. In light of Debtor and Successor having funding the Plan with \$105,000.00 and that the payoff on the Plan is under \$20,000.00.

Counsel for the Trustee reported that the total payoff would be a little less than \$21,000.00 to pay off the Plan. With the payment of the \$6,000.00 today, then it will be substantially reduced.

With the \$6,000.00 payment being made, the Trustee concurred with the request for a further continuance in light of the efforts manifested by the Successor to Debtor.

November 7, 2023 Hearing

Since the September 13, 2023 hearing, nothing further has been filed. At the hearing, counsel for the Chapter 13 Trustee reported that the \$6,000.00 payment has been received, but Debtor is still delinquent \$9,000 +/-.

At the hearing, the court addressed with counsel for the successor representative that this is a situation where various family members who continue to reside in the residence property of the late Debtor must pay their monthly rent. This is not an opportunity for the successor representative, the fiduciary of the Bankruptcy Plan Estate, to live the Plan Estate property and not pay their rent.

The Trustee agreed to a modest continuance to afford the successor representative to get the finances straighten out, and get the Plan payments back on track and current.

The court shall issue an 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, David Cusick (“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.

16. [22-20815-E-13](#)
[DPC-3](#)

JAMES JOHNSON
Candace Brooks

CONTINUED MOTION TO DISMISS
CASE
9-20-23 [45]

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons who have filed a Request for Notice and Office of the United States Trustee on September 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is XXXX.

January 17, 2024 Hearing

No further pleadings had been filed as of the court’s January 12, 2024 review of the Docket. In the Debtor’s prior Supplemental Pleading (Dckt. 56), the challenges in attempting to communicate with Creditor Selene Finance were discussed in appropriate detail.

At the hearing, XXXXXXXXXX

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, James Roy Johnson (“Debtor”), is delinquent \$110,370.72 in Plan payments to the Trustee.
2. There is \$21,575.00 in non-exempt equity in the assets listed on Schedules A/B, and therefore the Trustee does not believe a conversion to a Chapter 7 is in the best interest of the creditors or the estate.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on October 4, 2023. Dckt. 49.

1. The Debtor notes that he has been in this Chapter 13 Plan since April, 2022.
2. At the time the Debtor his Chapter 13 petition, there was a pending foreclosure sale.
3. However, during the COVID-19 pandemic, the Debtor received notices from his mortgage company that he could request a forbearance with respect to his mortgage payments. The Debtor tried to modify his loan with the mortgage company but was unsuccessful. Declaration, Dckt. 50.
4. The Debtor’s mortgage company started foreclosure proceedings, and the Debtor believed the only way to save the equity he had in the home was to sell the residence. The residence was listed for sale and the Debtor had a potential buyer.
5. Due to the pending foreclosure date, the Debtor had filed for a Chapter 13 Bankruptcy to allow some time to sell the property. After some time, however, the Debtor instead decided to look into a reverse mortgage so that he could stay in his home. Due to the mortgage arrearages, liens, and other debts, the Debtor was unable to qualify for a reverse mortgage.
6. The Debtor learned about and applied for mortgage assistance with the CA Mortgage Relief Program that is currently under review. Declaration, Dckt. 50.
7. The Debtor asks the Court for the opportunity to stay in his Chapter 13 Plan and pay off his Plan. If the Debtor receives the mortgage assistance, he will immediately apply for a reverse mortgage and file a motion to modify his Chapter 13 Plan. If the Debtor’s application for mortgage assistance is not granted, the Debtor will file the appropriate motions to engage a realtor and file a motion to sell the property.
8. The Debtor can continue to pay \$2,567.00 for his Chapter 13 Plan payment, but is unable to pay the increased amount of \$2,833.00. The Debtor has

been told that he should have a decision by the end of October, 2023 regarding his request for mortgage assistance.

9. The Debtor requests that the Trustee's Motion to Dismiss be continued so that he may find out the decision of the mortgage assistance. At that time, the Debtor will know which course of action that he will need to take and will do so immediately. Declaration, Dckt. 50.

DISCUSSION

Delinquent

Debtor is \$110,370.72 delinquent in plan payments, which represents the lump sum that the Debtor was to pay in month 15 after selling his real property to complete the Plan at 100% for all creditors. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

Debtor has now been in this case for nineteen months and has not moved forward with a sale, though being bound by the confirmed Chapter 13 Plan to market and sell the Property in a commercially reasonable manner in the fifth month of the Plan. Plan; Dckt. 3. Then, in October 2022 (a year ago), Debtor modified the Plan to switch from a sale to obtain a reverse mortgage and have the secured claim paid in full by month fifteen of the Plan. Modified Plan, Dckt. 33; Order, Dckt. 42.

Though having a year to obtain the reverse mortgage as promised, as opposed to selling the Property as originally promised, Debtor has not yet obtained the reverse mortgage.

The current Opposition is little more than Debtor failing to comply with his second promise, and now propose a third reason for delaying in performing the Plan. Though the Debtor asserts that he should know by the end of October 2023, that is just more delay.

The court notes that while Debtor says that he learned he did not qualify for a reverse mortgage, Debtor does not say when he learned of that. Debtor does not say when he learned of that and why he has not been diligently prosecuting this case. It appears that only because the Trustee filed the present Motion that Debtor is taking any action.

At the October 18, 2023 hearing, counsel for the Debtor advocated that this is an unusual case and set of facts. Debtor is an 82 year old gentleman and is working with his daughter trying to find a way to stay in the home.

The Debtor and his daughter tried to get a reverse mortgage from three separate companies. The IRS tax claim, which has now been amended, impaired this process. The Debtor and his daughter tried with two other companies, but did not like the terms (interest and fees).

The Trustee agreed to a short continuance to allow Debtor and counsel to provide information about the Debtor's efforts to obtain mortgage arrearage cure benefits from the State or move forward with a sale of the Property.

November 29, 2023 Hearing

As of the court's November 27, 2023 review of the Docket, no further pleadings have been filed by Debtor. At the hearing, counsel for the Debtor stated that the Supplemental Pleadings were uploaded to the court on November 24, 2023. These were posted on the Docket after the court's November 27, 2023 review of the Docket.

Debtor's counsel explained, as it outlined in the Supplemental Pleadings, that a dispute has arisen as to the amount of the arrearage to be cured on the mortgage default. Debtor has applied for funds from the California Mortgage Relief Program ("CMRP"), but has been advised by the CMRP that the mortgage loan servicer Selene Finance, providing such services for the Creditor U.S. Bank Trust National Association, Trustee, has stated an arrearage cure amount greater than the amount stated in Prof of Claim 4-1, and which amount exceeds the funding that may be provided by CMRP.

Debtor's counsel reported the "challenges" in attempting to communicate with Selene Finance and the inconsistency in the arrearage numbers provided.

The Trustee concurred with the Debtor's request for a continuance to afford Debtor and Debtor's counsel to get to the bottom of the discrepancies and ascertain the correct cure amount.

The court shall issue an 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, David Cusick ("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**.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

On November 17, 2023, the Clerk of the Court issued an Order to Show Cause for failure of Creditor Higher Education Loan Authority of Missouri to pay the \$26.00 filing fee for its Motion to Restrict or Redact Public Access Re Claim 8-2. This Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, and other such other parties in interest as stated on the Certificate of Service on November 17, 2023. The court computes that 61 days' notice has been provided.

The Order to Show Cause is discharged, with no sanctions issued pursuant thereto.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured, with the fee paid on January 16, 2024. January 16, 2024 Docket Entry Report.

The court's order restricting access to Proof of Claim 8-2 was issued by the Clerk of the Court on November 3, 2023. Order, Dckt. 26.

The Order to Show Cause is discharged, with no sanctions issued pursuant thereto.

The court shall issue an 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, with no sanctions issued pursuant thereto.

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jose Gonzalez (“Debtor”), is \$443.49 delinquent in plan payments. Debtor will need to pay \$887.17 in order to bring the Plan current by the date of the Hearing.

Docket 28. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 30.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

A review of the Docket shows the Chapter 13 Trustee’s January 11, 2024 Docket Entry Report for the First Meeting of Creditors, stating that Debtor did not appear at the January 11, 2024 Continued First Meeting, but her counsel did.

The court shall issue an 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.

20. 19-26529-E-13 DPC-6	PAUL WILSON/JESSICA MAINVOILLE-WILSON Matthew DeCaminada	MOTION TO DISMISS CASE 11-20-23 [170]
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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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Paul Wilson and Lucia Mainvoille-Wilson (“Debtor”), is \$3,950 delinquent in plan payments. Debtor will need to have paid \$10,092.54 to bring the Plan current by this Hearing.

Docket 170. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 172.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$3,950 delinquent in plan payments, which represents just greater than one month of the \$3,071.27 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 21, 2023. By the court’s calculation, 57 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Austin Winston (“Debtor”), is \$1,158 delinquent in plan payments. Debtor will need to have paid \$1,978 to bring the Plan current before the Hearing date.

Docket20. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 22.

DEBTOR’S RESPONSE

Debtor filed a Response on January 1, 2024. Dckt. 24. Debtor states the delinquency will be cured prior to the hearing date by January 13, 2023. Debtor also informs the court that Debtor has cured a majority of the delinquency as of January 1, 2024, through electronic payments.

DISCUSSION

Delinquent

Debtor is \$1,158 delinquent in plan payments, which represents multiple months of the \$410 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor informs the court that he has paid most of the outstanding delinquency, and that he will pay the remainder by January 13, 2024. No evidence of any payment has been presented to the court. At the hearing, ~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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.~~

22. [20-21032-E-13](#) **MARJORIE ALCANTARA** **MOTION TO DISMISS CASE**
[DPC-5](#) **Richard Jare** **11-20-23 [135]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 50 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~denied without prejudice.~~

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Marjorie Alcantara (“Debtor”), is \$1,100 delinquent in plan payments. Trustee received last payment on October 16, 2023. Debtor will need to have paid \$3,600 to bring the Plan current before the Hearing date.

Docket 135. Trustee filed an unsigned, incomplete Declaration (the name of the declarant not stated).
Docket 137.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on January 3, 2024. Docket 139. Debtor does not make assurances that the delinquency will be cured prior to the hearing date.

Debtor has provided a sworn Declaration and supporting Exhibit showing a \$700 transfer to Trustee on December 30, 2023. Exhibit, Docket 141. Debtor asserts her last payment of \$400 should arrive by January 3. Debtor has not filed an exhibit showing this transfer of \$400. Debtor has not provided evidence of any other attempt to cure the remaining amount of \$2,500 presumed owed at the time of the hearing.

However, Debtor is gainfully employed and has been working at her present job for 17 years. Decl., Docket 140 ¶ 2. She ascribes her recent struggles to an attempt to start a new business. Her attorney states she might be developing burnout at her job due to engaging in activities which are not financially prudent. Docket 139 p. 2:9-10. The docket shows three confirmed plans and four motions to dismiss. Debtor is speaking with her attorney to try and find a way towards better financial planning.

DISCUSSION

Debtor was \$1,800 delinquent in plan payments, which represents two months of the \$900 plan payment. Debtor has provided the court with evidence that she has made a \$700 payment to the trustee, bringing the delinquency down to \$1,100. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor informs the court that she has paid roughly one-third of the outstanding delinquency, but she does not mention a way to cure the remainder. No evidence of any further payment has been presented to the court.

Modified Plan and Motion to Confirm Filed

Plan and Motion to Confirm Filed

Debtor has filed a Modified Plan (Dckt. 145) and Motion to Confirm (Dckt. 142) to address the defaults. From the court’s preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 144) states personal knowledge testimony in support of the Motion to Confirm. The hearing on the Motion to Confirm the Modified Plan is set for 2:00 p.m. on February 27, 2024. Amd. Ntc. of Hrg.; Dckt. 149.

~~Given Debtor’s active prosecution of confirmation of a Plan, the Motion is denied 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, David Cusick (“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.~~

23. [20-20734-E-13](#) **CHRISTINE CONRAD** **MOTION TO DISMISS CASE**
[DPC-2](#) **Jeffrey Ogilvie** **11-20-23 [51]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Christine Ann Conrad (“Debtor”), is delinquent \$3,123.05 in plan payments. Trustee received the last payment on October 16, 2023. Debtor will need to have paid \$6,595.29 to bring the Plan current by the Hearing date.

Docket 51. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 53.

DEBTOR'S RESPONSE

Debtor filed a Response on January, 3 2024. Dckt. 55. Debtor states the delinquency will be cured prior to the hearing date. Debtor has informed the court that Debtor has already cured a majority of the delinquency, only leaving a current balance of \$2,993.11 outstanding. Debtor states that the remaining payment will be made on January 5, 2024.

DISCUSSION

Delinquent

Debtor is \$3,123.05 delinquent in plan payments, which represents multiple months of the \$1,736.12 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor informs the court that \$3,602.18 has already been paid to cure the delinquency. Debtor states that the remaining balance of \$2,993.11 will be paid on January 5, 2024. No evidence of any payment has been submitted to the court. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick ("Trustee"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient 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 28, 2023. By the court’s calculation, 50 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Randy Howard (“Debtor”), is delinquent \$1,678.42 in plan payments. Debtor has paid \$0 into the Plan.
2. Debtor failed to appear at the required Meeting of Creditors held on November 2, 2023, which has been continued to January 11, 2024.
3. Debtor did not file tax returns for the years 2019, 2020, 2021, and 2022.

Docket 32. Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 34.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$1,678.42 delinquent in plan payments, which represents multiple months of the \$839.21 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failed to Appear at § 341 Meeting of Creditors

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

Failure to File Tax Returns

Debtor admitted at the Meeting of Creditors that the federal income tax return for the years 2019, 2020, 2021, and 2022 have not been filed still. Filing of the return is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is a ground to dismiss the case. 11 U.S.C. § 1307(e).

Trustee's Report of First Meeting of Creditors

The Trustee's January 12, 2024 Docket Entry Report for the Continued First Meeting of Creditors that day states that the Debtor did not appear at the Continued First Meeting. The Trustee's November 2, 2024 Docket Entry Report for the Original First Meeting of Creditors states that Debtor did not appear at the Original First Meeting.

Chapter 13 Plan Filed

On October 7, 2023, Debtor filed a Chapter 13 Plan. No motion to confirm has been filed for such plan. (This case having been filed on September 18, 2023, and the Plan not filed until October 7, 2023, Debtor must file a motion to confirm the plan. See, Local Bankruptcy Rule 3015-1(c)(1), (3).)

The Chapter 13 Plan filed provides for an \$839.21 monthly plan payment by Debtor and a Plan term of 60 months. Plan, ¶¶ 2.01, 2.03; Dckt. 17. The only claim provided for payment in the Plan is the Class 1 of Safe CU, which is stated to have a prepetition arrearage of (\$45,371) and for which there will be a monthly arrearage dividend payment of \$755.28. No provision is made for the Post-Petition Monthly Payments as part of the Class 1 claim (which is required).

Debtor states in Class 4 (Plan ¶ 3.10) that monthly payments will be made to Sacramento CU outside the Plan for its claim secured by a vehicle. No provision is made for any other secured claims or priority unsecured claims. For the Class 7 unsecured claims, Debtor provides that the dividend will not be less than 0.00% (Plan ¶ 3.14).

Safe Credit Union has filed Proof of Claim 8-1 asserting a secured claim in the amount of (\$571,612.48), for which the collateral is the Poppintree Lane Property. The pre-petition arrearage is asserted to be (\$69,263.29). The monthly mortgage payment is stated to be (\$3,418.01), which consists of principle and interest, monthly escrow, and private mortgage insurance.

On Schedule J Debtor lists having a home mortgage expense of (\$5,000) a month. Schedule J; Dckt. 14 at 41. This is higher than the amount stated by Safe Credit Union. On Schedule D Debtor lists Safe Credit Union as the only creditor having a claim secured by the Poppintree Lane Property. *Id.* at 21.

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

25. [19-21435-E-13](#) **HORTENCIA NUNEZ** **MOTION TO DISMISS CASE**
[DPC-2](#) **Peter Macaluso** **11-20-23 [101]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor has not filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Hortencia Nunez (“Debtor”), is \$3,703.05 delinquent in plan payments. Prior to the Hearing, two payments of \$2,231.29 will come due, meaning Debtor will need to pay \$8,165.63 in order to bring the Plan current before this Hearing.

Docket 101. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 103.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$3,703.05 delinquent in plan payments, which represents more than one month of the \$2,231.29 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on October 26, 2023. By the court’s calculation, 34 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is XXXX.

January 17, 2024 Hearing

A review of the Docket reveals that there is still no Modified Plan on file. However, Creditor Provident Funding Associates, L.P. filed a Notice of Mortgage Payment Change on January 9, 2024. Docket 9. The new monthly mortgage payment, effective February 1, 2024, is \$2,117.36.

At the hearing, XXXXXXXXXX

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Cory and Stacie Guthrie (“Debtor”), is delinquent in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on November 14, 2023. Dckt. 36. Debtor filed a Declaration in support of its Opposition. Declaration, Dckt. 38.

The Opposition recounts that the existing Chapter 13 Plan has been funded with \$75,340.00 to date, of which (\$26,642.72) has been disbursed to pay in full the claim secured by Debtor’s vehicle and (\$41,107) has been paid to creditors holding general unsecured claims.

Though Debtor's "plan" was to stay employed by Redding Electric Utility through the life of the Chapter 13 Plan, his earning being sufficient to fund the Plan. However, in September of 2022, Debtor was presented with the opportunity for private sector employment, so Debtor elected to retire, collect both the PERS and PARS funded pensions, and then work in the private sector. Unfortunately, the private sector work slowed and then in August 2023, the employment was terminated.

This resulted in the loss of income that led to the defaults.

In October 2023, Debtor has been re-employed by the Redding Electric Utility as a retired annuitant who can work up to 960 hours a year (which averages 20 hours a week). Because Debtor did not receive the retired annuitant income until mid-October 2023, the September and October 2023 monthly plan payments could not be made in full.

Debtor Cory Blake Guthrie provides his Declaration to go with the Opposition. Dec.; Dckt. 38. He recounts his income journey, the opportunity for the higher private sector income, election to retire, and then the loss of the private sector income.

In his Declaration, Debtor states he is delinquent because he was unexpectedly laid off from a contract position. Debtor informs the court he will file a new modified plan to cure the delinquency.

Request to Continue the Hearing

In the Opposition, Debtor requests that the hearing on this Motion be continued to January 9, 2024, based upon the anticipated prosecution of a motion to confirm a modified plan.

DISCUSSION

Delinquent

Debtor is \$14,348.00 delinquent in plan payments, which represents multiple months of the \$3,737.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). However, Debtor informs the court he will be filing a modified plan to address the delinquency. A review of the Docket on November 27, 2023 reveals no such plan has yet been filed.

Though as of November 27, 2023, no proposed Modified Plan and Motion to Confirm have been filed, thereby precluding having a properly noticed confirmation hearing by the end of 2023, the court believes that the facts and circumstances of this Case warrant a continuance. Debtor has a reliable income source (publicly funded pensions). Additionally, the Plan in this Case has been substantially funded, showing that the Debtor has been able to move this Case substantially forward.

The court continues the hearing, affording Debtor's counsel and Debtor to continue to concentrate on getting the modified plan and motion to confirm on file and set for hearing.

The court shall issue an 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, David Cusick (“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**.

27. [20-23546-E-13](#) **SUSAN MONTIEL** **MOTION TO DISMISS CASE**
[DPC-1](#) **Bruce Dwiggin** **11-20-23 [18]**

27 thru 28

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor has not filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Susan Montiel (“Debtor”), is \$150 delinquent in plan payments.
2. Debtor need only make this final payment to complete the Plan.

Docket 18. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 20.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$150 delinquent in plan payments, which represents one month of the plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, however, Debtor need only make this final payment to complete her Plan. At the hearing,

~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor has not filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Susan Montiel (“Debtor”), is \$125 delinquent in plan payments.
2. Debtor need only make this final payment to complete the Plan.

Docket 18. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 20.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$125 delinquent in plan payments, which represents one month of the plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, however, Debtor need only make this final payment to complete her Plan. At the hearing,
XXXXXXXXXX

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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.~~

29. [19-24355-E-13](#)
[DPC-6](#)

GLENN LEWIS
Chad Johnson

MOTION TO DISMISS CASE
11-20-23 [131]

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~denied without prejudice.~~

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Glenn Lewis (“Debtor”), is \$5,800 delinquent in plan payments. To bring the Plan current by the Hearing, Debtor will need to pay \$17,400.

Docket 131. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 133.

DEBTOR’S RESPONSE

Debtor filed a Response on January 2, 2024. Dckt. 135. Debtor submitted her own Declaration and the Declaration of her attorney, Chad Johnson, to authenticate the facts alleged in the Response. Declarations, Dockets 136, 137. Debtor informs the court that all claims have been paid in full in the Plan, and there is no delinquency. Decl. Docket 137 p. 1:20-22.

DISCUSSION

Delinquent

According to Trustee, Debtor is \$5,800 delinquent in plan payments, which represents one month of the plan payments. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, Debtor has submitted her own evidence to the court showing that there is no delinquency, and all claims have been paid in full in this Chapter 13 Case.

The Confirmed First Modified Plan provides that Debtor shall make plan payments of \$5,800 in months 42 through 60 of the Plan. Plan, § 7.01 Additional Provisions; Dckt. 112. Month 42 of the Modified Plan is stated to be January 2023, which results in month 60 being June 2024.

In Class 7 of the First Modified Plan a 100% dividend is stated for Creditors with general unsecured claims. Unsecured claims have been asserted by: Internal Revenue Service for (\$16,095.20) priority unsecured, and California Franchise Tax Board for (\$4,197.10) priority unsecured claim, POC 1-3, and (\$5,850) for general unsecured, POC 3-2. No other proofs of claim have been filed for any other unsecured claims.

At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause does not exist to dismiss this case. The Motion is denied.~~

The court shall issue an 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, David Cusick (“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.~~

30. [20-21358-E-13](#)
[DPC-2](#)

DEANNE VASQUEZ
Mikalah Liviakis

MOTION TO DISMISS CASE
11-20-23 [32]

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2024. By the court's calculation, 58 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor has not filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

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

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Deanne Vasquez ("Debtor"), is delinquent \$5,190 in plan payments. To bring the Plan current by this Hearing, Debtor will need to pay \$8,730.

Docket 32. Trustee submitted a Declaration for which the declarant is not identified and the Declaration is not signed. Decl., Docket 34. At the hearing, **XXXXXXXXXX**

Debtor has not filed an opposition in this matter.

DISCUSSION

Delinquent

Debtor is \$5,190 delinquent in plan payments, which represents multiple months of the \$1,770 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

31. [20-21558-E-13](#) **DANIEL CRAIN** **MOTION TO DISMISS CASE**
[DPC-3](#) **Mark Briden** **12-20-23 [113]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Daniel Zinn Crain (“Debtor”), is delinquent \$5,370 in plan payments. Debtor will need to have paid \$7,160 to bring the Plan current by the Hearing date.

Docket 113. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 115.

DEBTOR'S RESPONSE

Debtor filed a Response in the form of a Declaration on January 3, 2024. Decl., Dckt. 117. Debtor states that the delinquency will be partially cured prior to the hearing date. Debtor states that \$3,580 will be remitted on January 3, 2024 to cover half of the outstanding balance. *Id.* at p. 1:26-27. Debtor states that an additional \$5,370 will be remitted before February 15, 2024 to cover the remaining outstanding balance and their January 2024 payment. *Id.* at p. 1:27-28–2:3.

DISCUSSION

Delinquent

Debtor is \$5,370 delinquent in plan payments, which represents multiple months of the \$1,790 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtor informs the court that a \$3,580 payment will be made on January 3, 2024 to cover a portion of the delinquency. Debtor states that the remainder of the delinquency will be paid prior to February 15, 2024, which will then bring the Plan current. No evidence of any payments has been submitted to the court. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is XXXX.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, George and Dolores Pence (“Debtor”), is \$2,223 delinquent in plan payments.

Docket 30. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 32.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on January 3, 2024. Dckts. 34, 35. Debtor informs the court that debtor Mary Pence passed away in October of 2023. Debtor George Pence’s income has decreased by approximately \$3,700.00 as a result of Mrs. Pence passing. Debtor’s current income consists of social security income and pension income. Debtor is in the process of either proposing a modified plan or converting to address this issue.

DISCUSSION

Delinquent

Debtor is \$2,223 delinquent in plan payments, which represents multiple months of the \$743 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor has presented the court with real world difficulties showing why payments have been delayed. At the hearing, **XXXXXXXXXX**

The court notes that no Notice of Suggestion of Death of the co-debtor in this case has been filed. Neither has a motion been filed for the appointment of a successor representative for the late co-debtor.

The court shall issue an 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, David Cusick (“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**.

33. [18-27963-E-13](#) **EUFEMIO/LIZA SEGUBAN** **MOTION TO DISMISS CASE**
[DPC-6](#) **Peter Macaluso** **11-20-23 [147]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Eufemio and Liza Seguban (“Debtor”), is \$1,055 delinquent in plan payments. To become current by this Hearing, Debtor will need to have paid \$2,425.

Docket 147. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 149.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on January 3, 2024. Dckts. 151, 152. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$1,055 delinquent in plan payments, which represents over one month of the \$685 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtor has promised the court the delinquency will be cured. No evidence of any payment has been uploaded with the court. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Susan Elizabeth Lytle (“Debtor”), is \$1,190 delinquent in plan payments. To become current under the Plan by this Hearing, Debtor will need to pay \$2,380.

Docket 29. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 31.

DEBTOR’S RESPONSE

Debtor filed a Response on January 5, 2024. Dckt. 33. The court notes the Response was filed two days after the time limit specified in Local Bankruptcy Rule 9014-1(f)(1). Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$1,190 delinquent in plan payments, which represents multiple months of the \$595 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion. Counsel for Debtor is reminded that by failing to abide by the time limits prescribed in Local Bankruptcy Rule 9014-1(f)(1), the court may refuse to consider the Response. At the hearing, ~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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.~~

35. [23-22666-E-13](#) **MANUEL MARAVILLA** **MOTION TO DISMISS CASE**
[DPC-1](#) **Chad Johnson** **12-20-23 [28]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Manuel Maravilla (“Debtor”), is \$3,362 delinquent in plan payments. Trustee received last payment on October 30, 2023. Debtor will need to have paid \$6,724 to bring the Plan current before the Hearing date.

Docket 28. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 30.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on January 2, 2024. Dockets 32, 33.. Debtor states the delinquency will be cured prior to the hearing date. Decl., Docket 33 p. 1:20-22. Debtor asserts that he had an issue with his bank account which caused him to miss the payments. *Id.* at 1:20-21. To date, Debtor has not provided evidence of payment to trustee.

DISCUSSION

Debtor is \$3,362 delinquent in plan payments, which represents one month of the \$3,362 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). A promise to pay is not evidence that resolves the Motion. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Sonda L. Charlton (“Debtor”), is \$1,880.90 delinquent in plan payments. Trustee received last payment on November 15, 2023. Debtor will need to have paid \$5,648.10 to bring the Plan current before the Hearing date.

Docket 93. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 95.

DEBTOR’S OPPOSITION

Debtor filed an Opposition and supporting Declaration on January 3, 2024. Dockets 97, 98. Debtor states the delinquency will be cured prior to the hearing date. Decl., Docket 98 p. 1:25-27. Debtor states that her delinquency is due to needing to pay for emergency surgery on her dog in an attempt to save its life after it was hit by a car. *Id.* at 1:22-24. Debtor states that she has or will remit the following payments: \$1,500 on December 7, 2023, \$1,750 on December 22, 2023, and \$2,287.96 before January 17, 2024. *Id.* at ps. 1:26-2:3.

Debtor has not filed any exhibits showing payment.

DISCUSSION

Debtor is \$1,880.90 delinquent in plan payments, which represents nearly one month of the \$1,883.60 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). A promise to pay is not evidence that resolves the Motion.

In this case, Debtor informs the court that she will cure the delinquency yet has not submitted evidence, beyond her own testimony, that the delinquency will be cured. At the hearing, **XXXXXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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).

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, persons having filed a Request for Notice, and Office of the United States Trustee on January 2, 2024. By the court’s calculation, 15 days’ notice was provided. 14 days’ notice is required.

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jose Garcia (“Debtor”), is \$5,400 delinquent in plan payments.

Docket 45. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 43.

DEBTOR’S RESPONSE

Debtor filed a Response on January 9, 2024. Dckt. 48. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$5,400 delinquent in plan payments, which represents multiple months of the \$2,700 plan payment. Another plan payment will be due on January 25, 2024. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor promises to cure the delinquency before the Hearing. No evidence has been submitted of any payment. A promise to pay is not evidence that resolves the Motion.

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Tentative Ruling: 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Persons who have filed a Request for Special Notice and Office of the United States Trustee on October 18, 2023. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is XXXX.

January 17, 2023 Hearing

As of the court’s January 12, 2024 review of the Docket for this Case, no further pleadings have been filed. At the hearing, XXXXXXXXXX

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Danielle Nicole Delgado (“Debtor”), is delinquent \$1,920.00 in Plan payments. The Debtor has paid a total of \$27,614.91, with the last payment received on June 27, 2023. The Debtor’s monthly payment is \$480.00. Prior to the hearing, two payments of \$480.00 will become due. The Debtor will need to pay \$2,880.00 in order to bring the plan current by the date of the hearing.
2. There is \$0.00 in non-exempt equity in the assets listed on Schedules A/B. Therefore, because there is no non-exempt equity to be realized in the event of a conversion to a Chapter 7, the Trustee believes that conversion to a Chapter 7 is not in the best interest of the creditors or the estate.

Motion, Dckt 178.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on November 13, 2023. Dckt. 182. Debtor states that she initiated two electronic plan payments, one for November 10, 2023 and the other for November 20, 2023, both in the amount of \$1,440.00. Exhibit A, Dckt. 183. Additionally, the Debtor notes that she filed a Motion to Modify Plan, which was heard on August 11, 2020, which provided for an extension of the Plan term to 68 months, as allowed under the CARES Act. Order, Dckt. 107. Although the Debtor has struggled throughout her Plan, she is very close to completing it and believes she will be able to do so. Opposition, Dckt. 182.

DISCUSSION

Delinquent

The Trustee states that the Debtor is \$1,920.00 delinquent in plan payments, which represents multiple months of the \$480.00 plan payment. The Trustee also states that before the hearing, another two plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, the Debtor states that she has paid the Trustee the due amounts, and provides for the transactions in Exhibit A. Dckt. 183. The Debtor's Attorney submits a Declaration explaining that the Debtor provided her with the transactions via email. Declaration, Dckt. 184.

At the hearing, counsel for the Trustee reported that the Debtor is still delinquent \$1,000. The Trustee and Debtor agreed to continue the hearing to the court's January 17, 2024 calendar.

The court shall issue an 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, David Cusick ("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**.

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Kevin and Kristy Macy (“Debtor”), is delinquent \$2,252.50 in plan payments. Debtor will need to have paid \$5,302.50 in order to bring the Plan current by the Hearing date.

Docket 139. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 141.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on January 3, 2024. Dckts. 144, 145. Debtor states the delinquency will be cured prior to the hearing date. Debtor has informed the court that three payments will be made prior to the hearing, which will cure the delinquency. Decl., Dckt. 145 p. 2:1-4.

DISCUSSION

Delinquent

Debtor is \$2,252.50 delinquent in plan payments, which represents multiple months of the \$1,525 plan payment. Before the hearing, two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor states that payments will be made prior to the hearing date to bring the Plan current. No evidence of any payments has been submitted to the court, apart from Debtor’s testimony and promise to pay. At the hearing, ~~XXXXXXXXXX~~

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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.~~

40. [19-24993-E-13](#) **SYLVIA BROWN-JOSEPH** **MOTION TO DISMISS CASE**
[DPC-1](#) **Julius Cherry** **11-20-23 [21]**

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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Sylvia Marie Brown-Joseph (“Debtor”), is \$4,611.56 delinquent in plan payments. To become current by the Hearing, Debtor will need to pay \$8,493.84.

Docket 21. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 23.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$4,611.56 delinquent in plan payments, which represents multiple months of the \$1,941.14 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

FINAL RULINGS

41. [23-23803-E-13](#)

JAMES/CHRISTINA MATTHEW
Thomas Amberg

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-30-23 [17]

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 30, 2023. The court computes that 48 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on November 27, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 14, 2023. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, David Duryee and Felica Tortorici (“Debtor”), is delinquent \$6,818.62 in plan payments.
2. Debtor does not have a Plan pending after the Trustee’s Objection to Confirmation of Debtor’s original Plan was sustained by this court’s Order on October 5, 2023. Docket 24.

Docket 27. Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 29.

Debtor did not file a response in this matter.

DISCUSSION

Delinquent

Debtor is \$6,818.62 delinquent in plan payments, which represents multiple months of the \$3,409.31 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on October 5, 2023. Docket 24. A review of the docket shows that Debtor has filed a new plan or a motion to confirm a plan. Debtor has not offered an explanation for the delay in setting the Plan for confirmation, which is further grounds to grant this Motion.

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

43. [23-23308-E-13](#) **REBA DANRIDGE**
 Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
11-27-23 [39]

DEBTOR DISMISSED: 11/30/23

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), and Chapter 13 Trustee as stated on the Certificate of Service on November 27, 2023. The court computes that 51 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on December 1, 2023 (Dckt. 45), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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 as moot, and no sanctions are ordered.

44. 23-23608 -E-13 44 thru 45	TEMA ROBINSON Peter Macaluso	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 12-18-23 [42]
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Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 18, 2023. The court computes that 30 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on December 11, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

45. [23-23608-E-13](#)

TEMA ROBINSON
Peter Macaluso

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-16-23 [33]**

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 16, 2023. The court computes that 62 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on November 13, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Delinquent

Debtor is \$2,094.00 delinquent in plan payments, which represents multiple months of the \$700.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The hearing is continued to allow the Trustee to document service of these pleadings and insure that Debtor has received the pleadings.

January 17, 2024 Hearing

The Trustee having documented proper service of the Motion for the original Hearing and the Clerk of the Court having electronically served Debtor's counsel with a copy of the court's order continuing the hearing, and no responsive pleadings having been filed by Debtor, cause exists to dismiss the case and the Motion is granted.

The court shall issue an 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, David Cusick ("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.

CASE CONVERTED: 12/27/23

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice as moot, the case having been converted to one under Chapter 7 when Debtor filed a Notice of Conversion on December 28, 2023, Docket 55.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Roy and Elisabeth Quirarte’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on December 28, 2023, however, converting the case to a proceeding under Chapter 7. Dckt. 55. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor’s case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on December 28, 2023. *McFadden*, 37 B.R. at 521.

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

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

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 ordered, and the bankruptcy case shall proceed in this court.

52. [19-25143-E-13](#)
[DPC-2](#)

TRU YANG
Richard Jare

MOTION TO DISMISS CASE
11-20-23 [\[37\]](#)

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed a Notice of Withdrawal, which the court construes to be an *Ex Parte* Motion to Dismiss the pending Motion on January 9, 2024, Dckt. 44; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Tru Yang (“Debtor”); the *Ex Parte* Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Dckt. 44, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

53. [23-22845-E-13](#)

**GEORGENE HICKS AND
RICARDO ESPARZA**
Peter Macaluso

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
11-27-23 [85]

53 thru 54

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 27, 2023. The court computes that 51 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on November 20, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 27, 2023. The court computes that 21 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on December 20, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

55 thru 56

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 16, 2023. The court computes that 62 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on November 13, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

56. [23-23152-E-13](#)

MELANIE JOHNSON
Michael Hays

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
12-18-23 [44]

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 18, 2023. The court computes that 30 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on December 11, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

57. [20-20656-E-13](#)
[DPC-4](#)

MICHAEL KENNEDY
Julius Cherry

MOTION TO DISMISS CASE
11-20-23 [71]

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Chapter 13 Trustee, David Cusick ("Trustee") having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket xx), **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 6, 2023. The court computes that 42 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on November 30, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Reginald and Nichelle Nichols (“Debtor”), is \$5,780 delinquent in plan payments. To become current by this Hearing, Debtor will need to pay \$11,560.

Docket 91. Trustee submits the Declaration of an unknown declarant to authenticate the facts alleged in the Motion. Decl., Docket 93.

DEBTOR’S RESPONSE REPLY

Debtor filed a Response indicating non-opposition on December 21, 2023. Dckt. 95. Debtor states that they cannot come current under the Plan and dismissal is warranted.

DISCUSSION

Delinquent

Debtor is \$5,780 delinquent in plan payments, which represents multiple months of the \$2,890 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice, this case having been converted to one under Chapter 7. Notice of Voluntary Conversion; Dckt. 24.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Heather Neal (“Debtor”), is \$890 delinquent in plan payments. To become current by this Hearing, Debtor will need to pay \$1,780.

Docket 20. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 22.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$890 delinquent in plan payments, which represents multiple months of the \$445 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

On January 10, 2024, Debtor filed a Notice of Voluntary Conversion of this Case to one under Chapter 7. This case having been converted to Chapter 7, the Trustee’s Motion is denied without prejudice.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, Debtor having converted this Case to one under Chapter 7 (Dckt. 24), and upon review of the pleadings and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied without prejudice.

61. [22-21672-E-13](#)
[DPC-2](#)

TAMMY LAM
Anh Nguyen

MOTION TO DISMISS CASE
12-20-23 [36]

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on December 20, 2023. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Tammy Lam (“Debtor”), is \$557.01 in plan payments.

Docket 36. Trustee submits the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 38.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$557.01 delinquent in plan payments, which represents multiple months of the \$280 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

CASE CONVERTED: 12/30/23

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice as moot, the Chapter 13 Case having been converted to one under Chapter 7 by Debtor filing a Notice of Conversion on January 2, 2024. Docket 55.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Sung and Soon Kim’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on January 2, 2024, however, converting the case to a proceeding under Chapter 7. Dckt. 55. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor’s case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on January 2, 2024. *McFadden*, 37 B.R. at 521.

The court shall issue an 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, David Cusick (“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 as moot, the Chapter 13 Case having been converted to one under Chapter 7 by Debtor filing a Notice of Conversion on January 2, 2024. Docket 55.

63. [21-22075-E-13](#) **RESHMA SHARMA** **MOTION TO DISMISS CASE**
[DPC-2](#) **Peter Macaluso** **11-20-23 [67]**

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 20, 2023. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

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

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Reshma Sharma (“Debtor”), is \$1,218 delinquent in plan payments. To bring the plan current by this Hearing, Debtor will need to pay \$2,138.

Docket 67. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 69.

Debtor has not filed a response in this matter.

DISCUSSION

Delinquent

Debtor is \$1,218 delinquent in plan payments, which represents multiple months of the \$460 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons having filed a Request for Notice, and Office of the United States Trustee on November 14, 2023. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

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

The Motion is granted and Debtor’s Chapter 13 Case is converted to one under Chapter 7.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Renee Lane (“Debtor”), is \$9,836.16 delinquent in plan payments.
2. Debtor has no Plan pending after her previous Plan was denied by the court.

Docket 116. Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 118.

DEBTOR’S RESPONSE

Debtor filed a Response on January 3, 2024. Dckt. 122. In her Response, Debtor states:

1. She would have been able to make plan payments if her renters paid her rent money as agreed. However, her renters have not been paying at all, or have been making inconsistent payments.
2. She asks this court convert her case to one under Chapter 7 instead of granting Trustee’s Motion to Dismiss.

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)). Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984).

DISCUSSION

Here, Debtor requests the court grant her a conversion instead of granting Trustee’s Motion to Dismiss. A review of the Docket reveals that the case has not been previously converted, and Debtor’s right to a one time conversion under these circumstances is nearly absolute.

Consistent with the relief stated in the Motion by the Trustee that the Case be converted to one under Chapter 7, Debtor has also stated her election to convert this Case to one under Chapter 7.

The Motion is granted and the case is converted to one under Chapter 7.

The court shall issue an 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, David Cusick (“Trustee”), having been presented to the court, the Trustee requesting that the court convert this case to one under Chapter 7 as being in the best interests of creditors and the Bankruptcy Estate, the Debtor stating in her Response to the Motion her election to convert this Bankruptcy Case to one under Chapter 7, and upon review of the file in this Case, and good cause appearing,

IT IS ORDERED that the Motion is granted and this **Bankruptcy Case is converted to one under Chapter 7.**

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on November 15, 2023. The court computes that 63 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on November 13, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on December 15, 2023. The court computes that 33 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on December 12, 2023.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an 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 ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the January 17, 2024 Hearing is required.

The Chapter 13 Trustee, David Cusick ("Trustee") having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket xx), **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**