

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein
Chief Bankruptcy Judge
Sacramento, California

January 21, 2015 at 10:00 A.M.

1. [14-21304](#)-C-13 CHARLIE/LAURA BALANGUE MOTION TO DISMISS CASE
DPC-3 Peter Macaluso 11-17-14 [[81](#)]

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

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

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on November 17, 2014. 28 days' notice is required. This requirement has been met.

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

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

1. Debtors have not paid all sums or fees required by the Plan. 11 U.S.C. § 1325(a)(2). Debtors are \$1,700 delinquent in Plan payments to the Trustee to date and the net schedule payment of \$1,700 was due on November 25, 2014. Debtors have paid \$11,900 into the Plan to date.
2. Debtors' Motion to Confirm PGM-2 was heard and denied at the hearing on September 9, 2014. To date, Debtors have failed to

file an Amended Plan and set it for confirmation.

Debtors' Reply

On January 6, 2015, Debtors filed a response stating that they will be current on or before the hearing, and have requested that Trustee's Motion to Dismiss be denied.

Discussion

The Court docket reflects that Debtors continue to be delinquent in Plan payments to the Trustee. Additionally, Debtors have not filed an Amended Plan. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

IT IS ORDERED that the Motion to Dismiss is granted.

2. [14-29005](#)-C-13 MARIE WILLIAMS
Joseph Canning

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-9-14 [[48](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 4, 2014). The court docket reflects that the payment was made on January 8, 2015.

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

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

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 21, 2014. 28 days' notice is required. This requirement has been met.

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

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

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

1. Debtor did not appear at the First Meeting of Creditors held on November 21, 2014. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325. The meeting was continued to December 18, 2014.
2. Debtor did not provide the Trustee with a tax transcript or a copy of the Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists. 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3). This is required 7 days before the date set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
3. Debtor did not provide Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor did not file all pre-petition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. § 1308 and § 1325(a)(9). According to the Proof of Claim filed by Internal Revenue Service, no federal tax

return was filed for 2013.

The Court docket reflects that Debtor did not appear at the continued First Meeting of Creditors on December 18, 2014. The docket also reflects that the documents noted by Trustee have not been filed. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

IT IS ORDERED that the Motion to Dismiss is granted.

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

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

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 16, 2014. 28 days' notice is required. This requirement has been met.

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

The court's decision is to continue the Motion to Dismiss.

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

1. Debtor has not paid all sums or fees required by the Plan. 11 U.S.C. § 1325(a)(2). Debtor is \$2,000 delinquent in Plan payments to the Trustee to date and the net schedule payment of \$1,450 was due on December 25, 2014. Debtor has paid \$4,350 into the Plan to date.
2. Debtor has no pending Plan. Trustee's Objection to Confirmation was heard and sustained by this Court at a hearing held on August 26, 2014. Creditor Capital One Auto Finance's Objection to Confirmation was also heard and sustained on August 26, 2014. No subsequent amended plan or Motion to Confirm has been filed to date.

Debtor's Reply

On December 23, 2014, Debtor filed an opposition to the Chapter 13 Trustee's Motion to Dismiss, stating:

1. Debtor's Plan depends on a order valuing a second mortgage lien of Debtors residence. Debtor has filed a motion to value

said lien and set the motion for hearing on January 13, 2015.

2. On December 17, 2014, Debtor received a letter from the Creditors of the second mortgage, Art Beadle, Zoe Beadle, and Alina Frieda Sargiss, concerning valuation of the subject property.
3. Debtor states that she will file an amended Chapter 13 Plan and motion and set said motions for hearing based on whether a compromise can be met with Creditor.

DISCUSSION

The Court notes that Debtor indeed filed a Motion to Value Collateral on November 21, 2014. However, the Court docket shows that on January 7, 2014, Creditors filed an Opposition to Debtor's Motion to Value Collateral based on a differing valuation of the property in question. Because conflicting valuations of the property have arisen, an evidentiary hearing has been set for [DATE] at [TIME]. Thus, while cause remains to grant Trustee's Motion to Dismiss based on delinquency of payments, which Debtor has not to date remedied, the Court will enter an order continuing the Motion to Dismiss to [DATE] at [TIME].

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

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

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

IT IS ORDERED that the Motion to Dismiss hearing is continued to [DATE] at [TIME].

5. [13-28817](#)-C-13 ADRIAN ROBERTS
DPC-1 Steele Lanphier

MOTION TO DISMISS CASE
12-15-14 [[74](#)]

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on January 14, 2015, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

6. [14-29325](#)-C-13 SOPHIA HICKS
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-22-14 [[39](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 17, 2014). The court docket reflects that on January 5, 2015, the Debtors paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 19, 2014. 28 days' notice is required. This requirement has been met.

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

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| The court's decision is to deny the Motion to Dismiss without prejudice. |
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors filed their case on April 16, 2014 and have yet to confirm a plan. Debtors' Motion to Confirm PLC-1 was heard and denied at the hearing on October 21, 2014. To date, Debtors have not filed an Amended Plan or set it for confirmation. Debtors are causing unreasonable delay that is prejudicial to creditors.

Debtor's Reply

On January 7, 2015, Debtors filed a reply to Trustee's Motion to Dismiss, stating:

1. Debtors filed an Amended Plan and Motion to Confirm same on January 7, 2015.
2. Debtors are current under the amended plan. The amended plan calls for 8 payments of \$627 and the remaining 52 payments of \$633.34. The Trustee received the 8th Plan payment of \$627 on December 23, 2014. The total paid in as of January 7, 2015 is \$5,016, showing that the first 8 Plan payments have been made.
3. Debtors did not cause the delay. Debtors' attorney states that

he had the amended plan prepared, then failed to send it out to Debtors for signature. When he received the instant motion to dismiss, Debtors' attorney immediately pulled the file and realized the error. Upon receiving the signed documents, Debtors' attorney caused the plan and motion to be served and filed. Debtors' attorney assumes all responsibility, asserting that Debtor has made all Plan payment, stating all payments were timely disbursed to secured creditors timely with no delay.

Discussion

A review of the docket indicates that Debtors filed an Amended Plan on January 7, 2015 (Dkt. 79) and set it for a confirmation hearing on February 24, 2015 (see Notice of Hearing (Dkt. 77)). The court reviewed the Motion and it complies with Rule 9013 and the Declaration supporting the Motion is sufficient. Debtors informed the court that they are current on plan payments and are taking the appropriate steps to prosecute their Chapter 13 case. Therefore, the court does not find cause to dismiss and will deny the motion without prejudice.

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

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

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

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

8. [14-30332](#)-C-13 JEFFREY AKZAM
DPC-2 Pro Se

MOTION TO DISMISS CASE
12-9-14 [[27](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy
Case having been filed by the Chapter 13
Trustee, the Chapter 13 Trustee having filed
an ex parte motion to dismiss the Motion
without prejudice pursuant to Federal Rules of
Civil Procedure 41(a)(2) and Federal Rules of
Bankruptcy Procedure 9014 and 7014, dismissal
of the Motion being consistent with the
opposition filed, and good cause appearing,

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

9. [13-28133](#)-C-13 DICKIE/BRENDA BELL
DPC-1 Douglas Jacobs

MOTION TO DISMISS CASE
12-15-14 [[27](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court denies without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case
having been filed by the Chapter 13 Trustee, the
Chapter 13 Trustee having filed an ex parte
motion to dismiss the Motion without prejudice
pursuant to Federal Rules of Civil Procedure
41(a)(2) and Federal Rules of Bankruptcy
Procedure 9014 and 7014, dismissal of the Motion
being consistent with the opposition filed, and
good cause appearing,

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 8, 2014. 28 days' notice is required. This requirement has been met.

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

The court's decision is to deny the Motion to Dismiss.

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

1. Debtor is in material default under a term of the confirmed plan. 11 U.S.C. § 1307(c)(6). Debtor is delinquent \$420.00 in plan payments to the Trustee.

Debtor's Response

Debtor asserts she missed two payments because of a health condition causing her to miss work over the last six months, resulting in a significant loss of income. Debtor asserts that her condition has stabilized and she returned to a normal work schedule in January 2015. Debtor will receive gross monthly income of \$2,728.

DISCUSSION

Debtor filed an Amended Plan and Motion to Confirm Amended Plan on January 7, 2015. Debtor filed income and budget updates as exhibit A to the motion to confirm amended plan. The court reviewed the Amended Plan and Motion to Confirm and attached documents. The Declaration requests the court "take notice of all the documents that have previously been filed" in the case and "incorporate those facts into the present declaration." This language is insufficient and directs the court to review the entire docket in an effort to determine whether confirm of the plan is appropriate. The court does find that the Debtor is adequately prosecuting her plan and will deny the motion to

dismiss without prejudice. However, the court will further order that Debtor submit a supplemental declaration by January 31, 2015, sufficiently supporting the Motion to dismiss.

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

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

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

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

IT IS FURTHER ORDERED that Debtor will submit a supplemental declaration to the Motion to Modify Chapter 13 plan by January 31, 2015.

11. [12-28536](#)-C-13 TONY/MARIA BUTLER
DPC-1 Steele Lanphier

MOTION TO DISMISS CASE
12-8-14 [[50](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 8, 2014. By the court's calculation, xx days' notice was provided. 28 days' notice is required. That requirement was met.

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

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

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

1. Debtors are in material default under the terms of the confirmed plan because they are delinquent \$3,000 in plan payments. Debtors' plan payments are \$1,000 per month.

Pursuant to 11 U.S.C. § 1307(c)(6), cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

12. [14-29244](#)-C-13 CANDI MALONE
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-19-14 [[20](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$74.00 due on November 14, 2014). The court docket reflects that on December 18, 2014, the Debtor paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

13. [12-40445](#)-C-13 BENANCIO DELOSSANTOS
DPC-4 Thomas Gillis

MOTION TO DISMISS CASE
12-8-14 [[28](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy
Case having been filed by the Chapter 13
Trustee, the Chapter 13 Trustee having filed
an ex parte motion to dismiss the Motion
without prejudice pursuant to Federal Rules of
Civil Procedure 41(a)(2) and Federal Rules of
Bankruptcy Procedure 9014 and 7014, dismissal
of the Motion being consistent with the
opposition filed, and good cause appearing,

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 16, 2014. 28 days' notice is required. This requirement has been met.

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

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| The court's decision is to deny the Motion to Dismiss without prejudice. |
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are in material default under the terms of the confirmed plan because Debtor's are delinquent \$1,300 in plan payments. Debtors' monthly plan payments are \$650.00.

Debtors' Response

Debtors states that they fell behind on plan payments because Debtor Charles Hodge lost his job. He has since gained alternate employment and Debtors will resume making plan payments. Debtors only have four more plan payments until plan completion. Debtors intend on filing a modified plan shortly. The filing of the modified plan was slowed by the retirement of Debtors' former attorney, John Harrison, and the substitution of Scott Shumaker.

Discussion

The court recognizes that the Debtors are attempting to complete a plan very close to the end of its term. Debtors filed an Amended Plan and Motion to Confirm on January 14, 2015 and filed a Motion to Value the secured claim of Wells Fargo Bank, N.A. on January 15, 2015. While the Debtors are making efforts to prosecute their Chapter 13 case, the Declaration in support of the Amended Plan and Motion to Confirm is insufficient as it generally makes

claims of good faith and compliance with the standards under section 1329. The court will deny the motion to dismiss without prejudice and order the Debtors submit a supplemental declaration in support of confirmation by February 15, 2014.

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

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

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

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

IT IS FURTHER ORDERED that the Debtors file a supplemental declaration in support of confirmation by February 15, 2015.

15. [14-29646](#)-C-13 ERROL/ALITA MERCADO
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-3-14 [[31](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtors' failure to pay the required fees in this case (\$77.00 due on December 1, 2014). The court docket reflects that on December 11, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 16, 2014. 28 days' notice is required. This requirement has been met.

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

The court's decision is to continue the Motion to Dismiss.

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

1. Debtors are in material default under the terms of the confirmed plan because Debtors are delinquent \$300 in plan payment. Debtors' monthly plan payments are \$150.00.

Debtors' Response

Debtors are filing a motion for hardship discharge, which, if granted, will resolve the issue of delinquency under the plan.

Discussion

On January 7, 2015, the Debtors filed a Motion for Hardship Discharge, which is set for hearing on February 24, 2015. The court will continue the Motion to Dismiss to be heard on the same date at the Motion for Hardship Discharge.

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee having been
presented to the court, and upon review of the

pleadings, evidence, arguments of counsel, and
good cause appearing,

IT IS ORDERED that the Motion to
Dismiss is continued to February 24, 2014 at 2:00
p.m.

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

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

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 7, 2014. 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). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

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| The court's decision is to deny the Motion to Dismiss. |
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Trustee's Objection to Confirmation was sustained on July 22, 2014 and Debtor has not filed an Amended Plan. Debtor is not adequately prosecuting the chapter 13 case.

Trustee requests the court dismiss the case unless Debtor files and serves an Amended Plan and Motion to Confirm no later than January 7, 2015; Debtor is current under proposed plan payments no later than January 7, 2015; and Debtor files a response explaining the reasons for the delay no later than January 7, 2015.

Debtor's Response

Debtor responds and states that the delay was due to his inability to find an appraiser to value his property. As part of his original proposed plan, Debtor intended to pay unsecured creditors a dividend based on a discounted value of a note. Trustee objected to the plan on the basis that liquidation analysis should include the full amount due on the note, unless Debtor provided evidence of the discounted value.

Debtor has attempted to obtain a valuation of the note, but has been

unable to obtain an appraisal for present market value. Potential appraisers offered only either a value for quick sale or preferred to value the underlying business and not the note. As a result, Debtor has determined he will need to propose a plan which will pay the nonexempt value of the note as of the date of filing.

Debtor anticipates filing an amended plan by January 9, 2015 and setting it for a hearing on February 24, 2015.

DISCUSSION

Debtor filed an Amended Plan and Motion to Confirm on January 10, 2015. The Motion to Confirm the Amended plan contains no reference to section 1329 and does not address the section 1329 grounds for confirmation. The motion does not comply with FRBP 9013. The declaration in support is similarly deficient as it does not address Debtor's good faith or other factors in support of confirmation.

The court will deny the motion to dismiss without prejudice and order Debtor to file a supplemental motion to confirm and supplemental declaration by February 15, 2015.

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

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

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

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

IT IS FURTHER ORDERED that the Debtor
file a supplemental motion to confirm and
declaration in support of the motion to confirm
by February 15, 2015.

18. [14-30849](#)-C-13 PATTI MINH-PHUONG TRAN
Mikalalah Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-8-14 [[17](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 3, 2014). The court docket reflects that on December 11, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

19. [14-27250.](#)-C-13 MATTHEW/JENNIFER
DPC-2 JUHL-DARLINGTON
Douglas Jacobs

MOTION TO DISMISS CASE
11-17-14 [[44](#)]

CASE DISMISSED 12/2/14

Final Ruling: No appearance at the January 21, 2015 hearing is required.

The case having previously been dismissed, the Motion is denied as moot.

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

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

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

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

20. [11-37452](#)-C-13 GEOFFREY CARVETH AND MOTION TO DISMISS CASE
DPC-1 CHRISTINA BROWN 12-8-14 [[82](#)]
Richard Chan

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on January 15, 2015, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

21. [13-31852](#).-C-13 FRED/EILEEN LIGHT
Marc Caraska

MOTION TO DISMISS CASE
12-15-14 [[53](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court denies without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case
having been filed by the Chapter 13 Trustee, the
Chapter 13 Trustee having filed an ex parte
motion to dismiss the Motion without prejudice
pursuant to Federal Rules of Civil Procedure
41(a)(2) and Federal Rules of Bankruptcy
Procedure 9014 and 7014, dismissal of the Motion
being consistent with the opposition filed, and
good cause appearing,

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

22. [14-30657](#)-C-13 EDDIE CABRERA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-3-14 [[23](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 1, 2014). The court docket reflects that Debtor has not paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is sustained. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The fees having not been paid, the Order to Show Cause is sustained.

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

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

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

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

23. [14-30962](#)-C-13 JASINDA MUHAMMAD
Richard Kwun

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-11-14 [[20](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 8, 2014). The court docket reflects that on December 3, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

24. [11-43271](#)-C-13 CORINNE SAUVE
DPC-2 Philip Rhodes

MOTION TO DISMISS CASE
11-17-14 [[301](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 17, 2014. 28 days' notice is required. That requirement was met.

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

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

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

1. The case was filed on July 28, 2014 and Debtor has yet to confirm a Chapter 13 plan. Trustee's objection to confirmation was heard and sustained on September 30, 2014. Pursuant to 11 U.S.C. § 1307(c)(1), debtor is causing unreasonable delay that is prejudicial to creditors.

The court finds there is cause exists to dismiss this case. A review of the docket supports the Trustee's statement that a modified plan has not been filed. Debtors filed a Motion to Value on December 2, 2014, that was denied on December 29, 2014 due to inadequate pleadings. Debtor filed a Motion to Confirm Plan on December 8, 2014 and it is set for hearing on January 27, 2015. However, the Motion to confirm is for confirmation of the previous plan that was already denied. The motion is granted and the case is dismissed.

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

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

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

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

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

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

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

Local Rule 9014-1(f)(2) Motion.

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

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----
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| The court's decision is to grant the Motion to Dismiss and dismiss the case. |
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

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

PRIOR HEARING

At the prior hearing on November 13, 2014, the court continued the Motion to permit Debtor to file a response. Debtor appeared at the hearing and informed the court that his wife had recently passed away and he was addressing issues surrounding his personal and financial circumstances.

The court set the motion for final hearing, with opposition to be

filed on or before November 28, 2014.

DEBTOR'S OPPOSITION

Debtor's Counsel informs the court that he has not been able to confirm the receipt of the delinquent plan payments by the Trustee. Counsel proposes the Motion be denied if the plan payments were made by the date of the hearing.

DISCUSSION

The court lacks verification that Debtor is current on plan payments. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 17, 2014. 28 days' notice is required. That requirement was met.

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

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

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

1. Debtor is \$148 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$74.00 is due on November 25, 2014. Debtor has paid \$222.00 into the plan to date. 11 U.S.C. § 1325(a)(2).
2. Trustee's Objection to Confirmation was heard and sustained at the hearing on September 16, 2014. To date, Debtor has not filed an Amended Plan and set it for confirmation.

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

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 21, 2014. 28 days' notice is required. That requirement was met.

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

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

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

1. Debtor did not appear at the First Meeting of Creditors held on November 13, 2014. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting. Debtor also did not appear at the continued meeting on December 23, 2014.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven date before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

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

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee having been

presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

29. [14-28178](#)-C-13 JACQUELINE GIPSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-17-14 [[51](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

The case having previously been dismissed, the order to show cause is
discharged as moot.

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

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

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

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

30. [14-30880](#)-C-13 DEANDRA JACKSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-8-14 [[18](#)]

Final Ruling: No appearance at the January 21, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on December 3, 2014). The court docket reflects that on December 11, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

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

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

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 12, 2014. 28 days' notice is required. That requirement was met.

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

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

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

1. Debtor is \$600.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$600.00 is due on December 25, 2014. Debtor has paid \$0.00 into the plan to date.
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

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

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

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

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

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

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

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

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on November 17, 2014. 28 days' notice is required. That requirement was met.

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

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

1. Debtor is \$3,481 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,153.00 is due on November 25, 2014. Debtor has paid \$12,284.00 into the plan to date.
2. Debtors' case was filed on May 16, 2014 and Debtors have yet to confirm a plan. Debtors' Motion to Confirm was heard and denied by the court on October 7, 2014. Debtors have not filed a further amended plan with motion to confirm.

DEBTORS' RESPONSE

Debtors state they will be filing a Motion to Confirm a subsequent amended plan within 7 days of their reply (January 7, 2015). Debtors request the court deny the Motion and permit them the opportunity to confirm their plan.

DISCUSSION

As of January 14, 2015, Debtors have not filed an Amended Plan and concurrent Motion to Confirm. Debtors are not adequately prosecuting their

Chapter 13 case and are delinquent in plan payments to the Trustee.

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

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

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

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

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

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

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

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 11, 2014. 28 days' notice is required. That requirement was met.

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

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

1. Debtor is \$6,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,000.00 is due on December 25, 2014. Debtor has paid \$3,000.00 into the plan to date.
2. Trustee's Objection to Confirmation was heard and sustained by the court at the hearing on November 18, 2014. Creditor One Shot Mining's Objection to Confirmation was also heard and sustained by the court on November 18, 2014. No subsequent or amended plan and Motion to Confirm have been filed.

DEBTOR'S RESPONSE

Debtor states that he has prepared a First Amended Chapter 13 Plan and Motion to Confirm and anticipate filing the documents on January 9, 2015. Debtor asserts that the delay was due to confusion and debate over the status of the alleged Second Deed of Trust.

DISCUSSION

As of January 14, 2015, Debtor has not filed an amended plan or motion

to confirm the amended plan. Debtor is not adequately prosecuting the chapter 13 case and remains in default in plan payments to the Trustee.

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

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

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

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

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

34. [13-27592](#)-C-13 TORRI JONES
DPC-1 Douglas Jacobs

MOTION TO DISMISS CASE
12-15-14 [[20](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court denies without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case
having been filed by the Chapter 13 Trustee, the
Chapter 13 Trustee having filed an ex parte
motion to dismiss the Motion without prejudice
pursuant to Federal Rules of Civil Procedure
41(a)(2) and Federal Rules of Bankruptcy
Procedure 9014 and 7014, dismissal of the Motion
being consistent with the opposition filed, and
good cause appearing,

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

35. [14-29892](#)-C-13 EDUARDO JIMINEZ
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-8-14 [[31](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$60.00 due on December 1, 2014). The court docket reflects that the fees upon which the Order to Show Cause was based was not paid.

The Order to Show Cause is sustained. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The fees having not been paid, the Order to Show Cause is sustained.

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

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

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

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

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

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

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

Local Rule 9014-1(f)(2) Motion.

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

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----
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| The court's decision is to grant the Motion to Dismiss and dismiss the case. |
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the First Meeting of Creditors held on November 6, 2014. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting. The continued meeting is set for January 22, 2015.
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor did not provide Trustee with a tax transcript or copy of his

Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e) (2) (A); FRBP 4002(b) (3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (1).

PRIOR HEARING

The court held an initial hearing on December 3, 2014 on the Trustee's Motion. At the hearing, the Debtor appeared and expressed confusion over the motion and an interest in hiring counsel. The court issued an order continuing the matter to permit Debtor time to hire counsel and address the Trustee's grounds for dismissal.

The docket reflects that no new documents have been filed in the case and Debtor is not making installment fee payments. Debtor has not obtained counsel and has not made any effort to resolve the Trustee's concerns.

Therefore, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

Final Ruling: No appearance at the January 21, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on December 16, 2014. 28 days' notice is required. That requirement was met.

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

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

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

1. Trustee's Objection to Confirmation was heard and sustained at the hearing on October 28, 2014. Debtor has not filed a subsequent plan or motion to confirm.

The docket reflects the Trustee's concerns and does not show that Debtor has filed an amended plan or motion to confirm. Pursuant to section 1307(c)(1), cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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