

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: January 25, 2022

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

January 25, 2022 at 1:00 p.m.

1. [21-90418](#)-B-13 MIGUEL TERRIQUEZ MOTION TO DISMISS CASE
[RDG](#)-3 Richard L. Jare 1-11-22 [[77](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to conditionally grant the motion to dismiss case and continue the hearing to February 1, 2022 at 1:00 p.m.

The court sustained objections to confirmation on November 23, 2021. The Debtor has not filed, set, and served an amended plan. Debtor's failure to perform his duties is an unreasonable delay that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, January 28, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 1, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 1, 2022, at 1:00 p.m.

January 25, 2022 at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the hearing to February 1, 2022 at 1:00 p.m.**

First, the Debtor is delinquent in plan payments in the sum of \$1,924.00. The last payment was received on December 24, 2021. 11 U.S.C. § 1307(c)(4).

Second, confirmation of Debtor's second amended plan was denied on January 4, 2021. The Debtor has failed to file, set, and serve a third amended plan.

Although the Debtor has filed a response, there is no indication that it was properly served since it is missing a certificate of service. Moreover, it does not resolve the aforementioned issues. Debtor's counsel states that a third amended plan and declaration to support a motion to value personal property has been prepared and forwarded to the Debtor for review and signature. At the time Debtor filed his response on January 13, 2022, Debtor stated that "necessary documents are being filed and served this week." It has been nearly two weeks since the response was filed and no new documents, such as a third amended plan and new motion to value, were filed with the court.

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, January 28, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on February 1, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on February 1, 2022, at 1:00 p.m.

3. [21-90434](#)-B-13 EDWARD BRUNNER AND MOTION TO DISMISS CASE
 [RDG](#)-2 KATHERINA COGGINS 1-10-22 [[54](#)]

Final Ruling

The Chapter 13 Trustee has filed a motion to dismiss its pending motion. The motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar and the case will proceed in this court.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

4. [21-90559](#)-B-13 LATONYA TYLER-GUILFORD ORDER TO SHOW CAUSE - FAILURE
Pro Se TO PAY FEES
12-13-21 [[13](#)]

DEBTOR DISMISSED: 12/17/21

Final Ruling

The case was dismissed on December 17, 2021, for failure to timely file documents. Therefore, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the minutes.

The court will issue an order.

5. [21-90472](#)-B-13 CARL GONSALVES CONTINUED OBJECTION TO
[RDG](#)-1 Pro Se CONFIRMATION OF PLAN BY RUSSELL
Thru #6 D GREER
11-18-21 [[22](#)]

HEARING TO BE HELD ON 1/25/2022 at 1:00 PM at Modesto Courtroom.

CONTINUED TO 2/08/22 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SCHEDULED FOR 2/02/22.

Final Ruling

No appearance at the January 25, 2022, hearing is required. The court will issue an
order.

6. [21-90472](#)-B-13 CARL GONSALVES CONTINUED MOTION TO DISMISS
[RDG](#)-2 Pro Se CASE
12-7-21 [[26](#)]

HEARING TO BE HELD ON 1/25/2022 at 1:00 PM at Modesto Courtroom.

CONTINUED TO 2/08/22 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SCHEDULED FOR 2/02/22 AND IN CONJUNCTION WITH
THE CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D GREER, RDG-1.

Final Ruling

No appearance at the January 25, 2022, hearing is required. The court will issue an
order.