

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**January 25, 2022 at 2:00 p.m.**

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1.	<a href="#">21-23002</a> -C-13	LAWRENCE FUNG	MOTION TO DISMISS CASE
	<a href="#">RDG</a> -3	Eric Schwab	1-10-22 [ <a href="#">30</a> ]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 33.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on October 26, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 21, 24.

The Motion also argues debtor is \$5.00 delinquent in plan payments, which is supported by declaration. Dkt. 32.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell Greer, having been presented to the court, and

**January 25, 2022 at 2:00 p.m.**

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,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 42.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on October 26, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 31, 35.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell Greer, 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, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

**Final Ruling:** No appearance at the January 25, 2022 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 73.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

**The hearing on the Motion to Dismiss is continued to March 8, 2022 at 1:30 p.m.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the first two proposed plans.

The debtor thereafter filed Opposition representing a new plan would be filed, and that the delay was due to negotiations with a secured creditor. Dkt. 75. A review of the docket shows the debtor filed a Motion To Confirm setting a March 8, 2022 confirmation hearing. Dkt. 77.

The court shall continue this hearing to be heard alongside the debtor's Motion To Confirm.

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

**IT IS ORDERED** that the hearing on the Motion to Dismiss is continued to March 8, 2022 at 1:30 p.m.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 35.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on November 9, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 27, 28.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell Greer, 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, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

5. [21-23156](#)-C-13 PATRICIA SHERRON  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-6-22 [[40](#)]

**Final Ruling:** No appearance at the January 25, 2022 hearing is required.  
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The court issued this Order To Show Cause because debtor had not paid the fee installment payment due on January 4, 2022. Dkt. 40.

A review of the docket shows that the installment has now been paid. Therefore, 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 ordered, and the bankruptcy case shall proceed in this court.

6. [21-23156](#)-C-13 PATRICIA SHERRON  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
12-7-21 [[38](#)]

**Final Ruling:** No appearance at the January 25, 2022 hearing is required.  
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The court issued this Order To Show Cause because debtor had not paid the fee installment payment due on December 2, 2021. Dkt. 38.

A review of the docket shows that the installment has now been paid. Therefore, 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 ordered, and the bankruptcy case shall proceed in this court.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 44.

**The Motion to Dismiss is granted.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on November 9, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 30, 32.

The Motion also argues debtor is \$6,405.00 delinquent in plan payments, which is supported by declaration. Dkt. 43.

**DISCUSSION**

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell  
Greer, 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,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.



8. [21-23367](#)-C-13 JASWINDER SANDHU  
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-4-22 [[29](#)]

**Final Ruling:** No appearance at the January 25, 2022 hearing is required.  
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The court issued this Order To Show Cause because debtor had not paid the fee installment payment due on December 27, 2021. Dkt. 29.

A review of the docket shows that the installment has now been paid. Therefore, 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 ordered, and the bankruptcy case shall proceed in this court.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 15 days' notice was provided. Dkt. 91.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended notice of hearing setting a confirmation hearing on the debtor's Third Amended Plan.

A review of the docket confirms a Memo was issued notifying the debtor of the necessity to amend its notice to state a proper hearing time. No amended notice was filed.

The Motion also argues debtor is \$6,136.29 delinquent in plan payments, which is supported by declaration. Dkt. 90.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell  
Greer, 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,  
the court having found that dismissal, and not  
conversion, is in the best interest of  
creditors and the Estate.

10. [21-20787](#)-C-13 MARY ANN LEWIS-JOHNSON MOTION TO DISMISS CASE  
[RDG](#)-3 AND AMOS JOHNSON 1-6-22 [[65](#)]  
Gary Fraley

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 68.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtors have not filed an amended plan since the court denied confirmation of the Chapter 13 plan on September 28, 2021.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 56, 57.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtors that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. 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, Russell Greer, 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, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.