

**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 31, 2023**

**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 31, 2023 at 1:00 p.m.**

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1. [22-90416](#)-B-13 JENNY TUNGSETH MOTION TO DISMISS CASE  
[RDG](#)-2 Pro Se 1-17-23 [[34](#)]

**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 7, 2023 at 1:00 p.m.**

First, the Debtor is delinquent in plan payments in the sum of \$100.00. 11 U.S.C. § 1307(c)(4).

Second, the Debtor has failed to set a confirmation hearing for the amended plan filed December 23, 2022. Debtor's failure to perform her duties is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Third, the Debtor has failed to provide her most recent federal income tax return and copies of payment advices. 11 U.S.C. §§ 521(a)(1)(B)(iv), (a)(3), (e)(2).

Fourth, the Debtor failed to appear at the original meeting of creditors held December 28, 2022, and the continued meeting of creditors held January 11, 2023. Although the meeting of creditors has again been continued to February 8, 2023, given Debtor's history of nonappearance and failure to file any response, it is doubtful that the Debtor will appear at the second continued meeting of creditors.

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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

**January 31, 2023 at 1:00 p.m.**

2. [22-90224](#)-B-13 SCOTT SALA CONTINUED OBJECTION TO  
[RDG-1](#) Marc Voisenat CONFIRMATION OF PLAN BY RUSSELL  
**Thru #3** D. GREER  
9-1-22 [[20](#)]

**Final Ruling**

The case having been dismissed at RDG-2, the continued objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

3. [22-90224](#)-B-13 SCOTT SALA CONTINUED MOTION TO DISMISS  
[RDG-2](#) Marc Voisenat CASE  
10-7-22 [[26](#)]

**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.

First, the Debtor is delinquent in plan payments in the sum of \$30,069.15. The Debtor has not made a single payment under the proposed plan and five plan payments have come due with an additional payment of \$6,013.83 due January 25, 2023. 11 U.S.C. § 1307(c)(4).

Second, the Debtor has not provided the Chapter 13 Trustee with a copy of his most recent federal income tax return and has breached his duties required by 11 U.S.C. § 521(a)(3) and (4).

Third, the meeting of creditors has been continued seven times. Although the Debtor has appeared at some, the Debtor failed to appear at the most recent continued meetings of creditors held December 14, 2022, and December 28, 2022. Although a continued meeting of creditors is scheduled for January 25, 2023, it is doubtful that the Debtor will appear given his most recent history of nonappearance and lack of communication with his counsel. See dkt. 59.

Debtor's counsel filed a response stating that he has attempted to contact the Debtor but has not received a response. Counsel states that he has no legal or factual basis to oppose the Trustee's motion.

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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

4. [22-90328](#)-B-13 NICASIO MALDONADO ORDER TO SHOW CAUSE - FAILURE  
Thru #7 Pro Se TO PAY FEES  
12-20-22 [[42](#)]

**Final Ruling**

The court's decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due December 15, 2022. The court's docket reflects that the default has not been cured.<sup>1</sup>

The order to show cause is ORDERED SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

5. [22-90328](#)-B-13 NICASIO MALDONADO CONTINUED OBJECTION TO  
KMB-1 Pro Se CONFIRMATION OF PLAN BY PLANET  
HOME LENDING, LLC  
11-14-22 [[24](#)]

**Final Ruling**

The case having been dismissed due to the sustained Order to Show Cause, see dkt. 42, the continued objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

6. [22-90328](#)-B-13 NICASIO MALDONADO CONTINUED OBJECTION TO  
RDG-1 Pro Se CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
11-15-22 [[31](#)]

**Final Ruling**

The case having been dismissed due to the sustained Order to Show Cause, see dkt. 42, the continued objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

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<sup>1</sup>In fact, another Order to Show Cause was issued on January 19, 2023, for Debtor's failure to make the January 17, 2023, installment.

7.     [22-90328](#)-B-13   NICASIO MALDONADO                   MOTION TO DISMISS CASE  
       [RDG](#)-3            Pro Se                           1-17-23 [[58](#)]

**Final Ruling**

The case having been dismissed due to the sustained Order to Show Cause, see dkt. 42, the motion to dismiss case is denied as moot.

The objection is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.

8. [22-90346](#)-B-13 CODY DESMOND  
[RDG-2](#) Arete Kostopoulos

MOTION TO DISMISS CASE  
1-17-23 [[25](#)]

### **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 7, 2023 at 1:00 p.m.**

The Chapter 13 Trustee's objection to confirmation was heard and sustained on December 6, 2022. To date, the Debtor has failed to file, set, and serve an amended plan. The Debtor's failure to perform his duties is an unreasonable delay that is prejudicial to creditors. 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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

9. [22-90350](#)-B-13 LARRY FOSTER ORDER TO SHOW CAUSE - FAILURE  
Thru #10 Pro Se TO PAY FEES  
1-3-23 [[62](#)]

#### **Final Ruling**

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$78.00 due December 28, 2022. The court's docket reflects that the default was cured on January 6, 2023, and that a final installment was paid on January 25, 2023.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

10. [22-90350](#)-B-13 LARRY FOSTER MOTION TO DISMISS CASE  
[RDG-2](#) Pro Se 1-13-23 [[66](#)]

#### **Final Ruling**

##### Introduction

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. Opposition was filed by Debtor Larry Foster ("Debtor"). Based on a review of the opposition, further briefing is not necessary. Local Bankr. R. 9014-1(f)(2)(C).

The court has also 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 grant the motion to dismiss.

##### Background

The Debtor is a serial filer of non-productive Chapter 13 cases. This is the Debtor's third Chapter 13 case filed in a little over four years. The **first** Chapter 13 case, case no. 18-90738, was filed on October 1, 2018, and dismissed a little over one year later on November 20, 2019, when the Debtor was unable to confirm a plan. See *id.*, at dkt. 107, 111. The **second** Chapter case, case no. 20-90207, was filed on March 16, 2020, and dismissed a little less than six months later on September 9, 2020, when the Debtor failed to meet the condition of a conditional dismissal order by not timely filing a Chapter 13 plan. See *id.*, at dkt. 58, 60. The Debtor filed this **third** Chapter 13 case, case no. 22-90350, on September 29, 2022. Telling is that the Debtor was represented by an attorney in the first two Chapter 13 cases and he filed this third Chapter 13 case without one.

The Chapter 13 Trustee moves to dismiss this case on grounds that the Debtor is delinquent in plan payments and has not filed, set, and served an amended plan after the court sustained objections to confirmation by the Trustee and creditor Federal Home Loan Mortgage Corporation on December 13, 2022.

Debtor states that he is current on plan payments and that he has filed an adversary proceeding against secured Claim No. 3-1 filed by creditor Federal Home Loan Mortgage Corporation. Debtor requests that the motion to dismiss be delayed until the claim issue is resolved in the adversary proceeding. The adversary proceeding was only recently filed on January 27, 2023. See adv. no. 23-09001 at dkt. 1.



## Discussion

As an initial matter, the Debtor's request to delay the administration of this case until his newly-filed adversary proceeding is resolved is an improper request to indefinitely "park" this case under Chapter 13. Beyond that, when considered under the totality of the circumstances, the Debtor's recently-filed adversary proceeding illustrates why this Chapter 13 case should be dismissed rather than converted.

"When a Chapter 13 bankruptcy case essentially boils down to a two-party dispute and other creditors will not be impacted, there is no reason for the debtor to be in bankruptcy." *In re Safakish*, 2018 WL 5621783, \*7 (Bankr. N.D.Cal. Oct. 29, 2018); accord *In re Mulivai*, 2013 WL 3936381, \*3 (Bankr. D. Hawai'i July 30, 2013). That is precisely what exists here.

This bankruptcy case effectively involves a two-party dispute between the Debtor and his lender who filed Claim 3-1 and that dispute has no affect on other creditors.<sup>1</sup> The Debtor asserts that he has no secured creditors. See Bankr. dkt. 70 at ¶¶ 1, 3-4. The Debtor scheduled no secured claims. See Bankr. dkt. 22 at Sch. D. His earlier-filed plan included no provision for the payment of any secured claims. See Bankr. dkt. 23. And the primary purpose of the second adversary proceeding the Debtor recently filed on January 27, 2023, adv. no. 23-09001, is to render Claim 3-1 unsecured because the Debtor no longer owns the property on which the lender claims a lien having lost it in a 2019 foreclosure and having been evicted from it sometime thereafter. See adv. no. 23-09001 at Dkt. 1; see also Bankr. dkt. 70 at ¶¶ 3, 4; Bankr. dkt. 28 at 2:1-19. The Debtor also proposes a 0% distribution to unsecured creditors. See Bankr. dkt. 23 at § 3.14.

To the extent there are no secured creditors and with no payment to unsecured creditors, there is no reason for the Debtor to be in bankruptcy.

Cause under 11 U.S.C. § 1307(c) exists to dismiss this case. The motion is granted and the case is dismissed.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

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<sup>1</sup>The Debtor has repeatedly attempted to use his bankruptcy cases as a forum to litigate against his lender(s) under similar circumstances. This is evident from the prior adversary proceeding the Debtor filed in this Chapter 13 case, adv. no. 22-09005, which the court dismissed on November 22, 2022, pursuant to its discretionary authority to abstain under 28 U.S.C. § 1334(c)(1) in favor of prepetition litigation involving the same parties and claims pending in state court. See *id.*, at dkt. 32. This is also evident from the Debtor's activity in the 2018 Chapter 13 case which the Debtor reopened on August 29, 2022, the multitude of actions the Debtor initiated against his lender in the reopened case, and from the another adversary proceeding against a lender the Debtor filed in the reopened 2018 case. See case no. 18-90738 at dkts. 128-166; see also adv. no. 22-09003.

11. [22-90353](#)-B-13 KELLY SEARS CONTINUED OBJECTION TO  
[RDG-1](#) David C. Johnston CONFIRMATION OF PLAN BY RUSSELL  
**Thru #12** D. GREER  
11-21-22 [[18](#)]

**Final Ruling**

The case having been dismissed at RDG-2, the continued objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

12. [22-90353](#)-B-13 KELLY SEARS MOTION TO DISMISS CASE  
[RDG-2](#) David C. Johnston 1-13-23 [[30](#)]

**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 7, 2023 at 1:00 p.m.**

First, the Debtor is delinquent in plan payments in the sum of \$1,500.00. 11 U.S.C. § 1307(c)(4).

Second, the Debtor has failed to provide the Chapter 13 Trustee with a copy of Debtor's most recent federal income tax return and payment advices. Therefore, Debtor has breached the duties imposed by 11 U.S.C. §§ 521(a)(1)(B)(iv), (a)(3), (4). Debtor's failure to perform her duties is an unreasonable delay that is prejudicial to creditors. 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, February 3, 2023, 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 7, 2023, 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 7, 2023, 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 7, 2023 at 1:00 p.m.**

First, the Debtor is delinquent in plan payments in the sum of \$101.28. 11 U.S.C. § 1307(c)(4).

Second, a hearing on confirmation of Debtor's plan was heard and the court denied confirmation on December 6, 2022. To date, the Debtor has failed to file, set, and serve an amended plan. Debtor's failure to perform his duties is an unreasonable delay that is prejudicial to creditors. 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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

14. [22-90379](#)-B-13 JAMES MAHONEY  
[RDG-1](#) David C. Johnston

MOTION TO DISMISS CASE  
1-17-23 [[24](#)]

### **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 7, 2023 at 1:00 p.m.**

The Debtor has failed to set a hearing on confirmation for the plan filed November 14, 2022. Debtor's failure to perform his duties is an unreasonable delay that is prejudicial to creditors. 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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

15. [22-90294](#)-B-13 ARTHUR ROBLES AND VALERIA MOTION TO DISMISS CASE  
[RDG-2](#) JIMENEZ ROBLES 1-13-23 [[24](#)]  
Jennifer G. Lee

### **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 7, 2023 at 1:00 p.m.**

The Chapter 13 Trustee's objection to confirmation as heard and sustained on November 8, 2022. To date, the Debtors have failed to file, set, and serve an amended plan. Debtors' failure to perform their duties is an unreasonable delay that is prejudicial to creditors. 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, February 3, 2023, 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 7, 2023, 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 7, 2023, at 1:00 p.m.

16. [22-90095](#)-B-13 CHERYL PORTER  
[RDG](#)-3 SCHIMMELFENNIG  
Gordon G. Bones

MOTION TO DISMISS CASE  
1-13-23 [[86](#)]

### **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 deny without prejudice the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss case on grounds that the Debtor is delinquent \$4,650.00 in plan payments. Additionally, the Trustee's objection to confirmation was heard and sustained on June 7, 2022. Trustee states that the Debtor's failure to perform is an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1).

Debtor has filed a response stating that her delay in filing an amended plan is not prejudicial because the delay was in part due to creditor Specialized Loan Servicing LLC not providing an updated settlement payoff to new lender Zero Mortgage. A payoff has now been provided and is good through February 14, 2023.

Debtor acknowledges that she is delinquent in plan payments for months October through December 2022 but states that the major portion of the plan payments go toward creditor Specialized Loan Servicing and that this has been accounted for in the payoff amount to Zero Mortgage.

Cause does not exist to dismiss this case at this time. The motion denied without prejudice and the case is not dismissed.

**That said, this case was filed on March 26, 2022, which means it has been pending for nearly one year without a confirmed Chapter 13 plan. There has been little effort to confirm a plan since confirmation was denied nearly eight months ago on June 10, 2022. See dkt. 36. The Debtor cannot "park" this case under Chapter 13 indefinitely.**

**The Debtor shall have until March 2, 2023, to file, set, and serve an amended plan. If an amended plan is not timely filed, set, and served this case may be dismissed on the Chapter 13 Trustee's ex parte application.**

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

The court will issue an order.

17. [22-90395](#)-B-13 DANIELLE SCAPARRO PALM  
T. Mark O'Toole

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
12-5-22 [[23](#)]

**Final Ruling**

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on November 30, 2022. While the delinquent installment was paid on December 7, 2022, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

18. [19-90291](#)-B-13 LUIS ALCANTARA  
[WLG](#)-3 Nicholas Wajda

CONTINUED MOTION TO SELL  
1-12-23 [[81](#)]

**Final Ruling**

This matter was continued from January 24, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, January 27, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 92, granting the motion to sell, shall become the court's final decision. The continued hearing on January 23, 2023, at 1:00 p.m. is vacated.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.