

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein  
Chief Bankruptcy Judge  
Sacramento, California

February 18, 2015 at 10:00 A.M.

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1. [11-50000](#)-C-13 JUAN/ALEJANDRA ARAIZA MOTION TO DISMISS CASE  
DPC-2 Thomas Gillis 1-21-15 [[65](#)]

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**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.

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**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.**

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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 January 16, 2015. 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).

<b>The court's decision is to deny the Motion to Dismiss without prejudice.</b>
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The Chapter 13 Trustee seeks dismissal of Debtors' case based on the following:

1. Debtors did not provide for the priority claim of the Internal Revenue Service (Claim 2) in the amount of \$5,740.81.
2. Debtors did not provide for the Employment Development Department claim (Claim 10) in the amount of \$477.15.

Section 2.13 of the plan makes this a material breach. Pursuant to 11 U.S.C. § 1307(c)(6), the case can be dismissed for material breaches.

**DEBTORS' RESPONSE**

Debtors state that they intend to file a modified plan that provides for the IRS and EDD claims.

**DISCUSSION**

On February 13, 2015, Debtors filed a Modified Plan and Motion to Confirm. The Motion and Declaration explain how the Debtors have modified the plan to resolve the issues Trustee cites in his Motion to Dismiss. As

Debtors are adequately prosecuting their Chapter 13 case, the Motion to Dismiss is denied without prejudice.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

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3.     [14-21304](#)-C-13    CHARLIE/LAURA BALANGUE                    MOTION TO DISMISS CASE  
DPC-4                    Peter Macaluso                    2-2-15 [[100](#)]

**Final Ruling:** The Chapter 13 Trustee having filed a Notice of Withdrawal on February 17, 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.

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**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.**

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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 January 15, 2015. 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).

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

1. The additional provisions of the Plan are not on a separate page, as required by Section 6. The language included in Section 6 indicates to the Trustee that the Additional Provisions of the plan are null and void; however, in the Additional Provisions also propose a balloon payments on or before the 25<sup>th</sup> month of the plan. The balloon payments will pay for the remainder of the amount needed to pay unsecured creditors in full. The source of the balloon payment will be sale of Debtor's Spouse's separate property house in Las Vegas, Nevada.

Trustee notes that no estimated amount of payment is provided and no evidence or explanation is provided as to how the Debtor can sell the property that they claim is separate property of Debtor's spouse, how long the property has been for sale, how the Debtor can have an opinion on value if she is not the owner, why the sale will take twenty-five (25) months, and why the Debtor should not receive the sale proceeds earlier and promptly pay them into the plan.

Without the lump sum, the plan will not pay 100% of unsecured

claims.

2. Debtor filed a prior Chapter 13 case (13-22384) on February 25, 2013 and the case was dismissed on July 16, 2013. The transcript from the Motion to Dismiss hearing includes a statement from Judge Sargis requesting that any future cases filed by this Debtor be re-assigned to him. (See Exh. A, Dkt. 21)
3. The Rights and Responsibility filed in this case reflect that Debtor paid her attorney, Anthony Hughes, \$8,000 before the filing of the petition. The transcript of the hearing on the Motion to Dismiss discussed \$8,000 in tax refunds the Debtor intended to pay to her attorney, although the court had opined that Debtor probably retained the refunds.

#### **DEBTOR'S RESPONSE**

Debtor states that this case differs from the prior because it provides for the interests of all creditors and state court family law issues are not longer at issue. The issue creditor in the former case appears to be Debtor's former spouse, George Scott.

Debtor states that her current husband is selling separate property in Nevada, and the funds will be turned over directly to the Trustee. Debtor requests time to respond to the Trustee through testimony or a declaration.

Debtor attached a Listing Agreement for the Las Vegas residence, showing the listing price as \$449,000. Debtor also provided a copy of an incomplete settlement agreement between Debtor, Debtor's former spouse, and Debtor's current spouse.

#### **CREDITOR'S RESPONSE**

Creditor, Jean-Pierre Rushing dba Interwest Judgment Recovery, Assignee for George Scott, supports the Trustee's Motion to Dismiss. Creditor states that Trustee provided a deadline of February 4, 2015 for Debtor to file a plan that met the Trustee's requirements. Debtor did not meet that deadline, Creditor argues, because Debtor was purportedly attempting to draft a Settlement Agreement for Creditor's benefit.

Creditor asserts that there was no reason for Debtor to file bankruptcy given Debtor's intention to pay Creditor 100% of the balance owed. Any agreement could have been entered into outside of bankruptcy court.

#### **DISCUSSION**

A review of the transcript indicates that Judge Sargis preferred that any refiling of the instant case be presided over by either himself or Judge Klein. Seeing as though the case was assigned to Judge Klein and given that Judge Klein and Judge Sargis work closely on Chapter 13 matters, the court sees no immediate reason to effectuate a transfer of the case.

While this is a second filing, it is a second filing coming just over a year and a half since the first filing was dismissed. The court recognizes there may be material changes to the Debtor's circumstances.

After reviewing the record, the court is not convinced that circumstances have changed so to warrant Debtor remaining in Chapter 13 and the court also is not convinced that Debtor is adequately disclosing assets.

Debtor's motivation in filing bankruptcy appears purely to control the method through which Creditor enforces its \$162,497.68 judgment. Debtor states in her response that she believes all parties would benefit from bankruptcy resolution of the debt, "i.e., 100% payments on all debts through the sale of real estate -- rather than through piecemeal seizure of assets." See Debtor's Response, ECF 29. Currently, the Sacramento County Sheriff is in possession of \$1,503, a 1967 Corvette Stingray, and a security safe, assumed to be levied on by the judgment creditor. The court notes that the 1967 Stingray is not disclosed on Debtor's schedules.

Creditor asserts there was no legitimate reason for Creditor to enter Chapter 13 relief and any agreement with regard to payment of the judgment could be achieved outside of bankruptcy.

By filing this case, Debtor is not attempting to restructure debt, but wanting to control the collection method of Creditor. Pursuant to 11 U.S.C. § 1307(c)(1), 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.

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5. [14-30111](#)-C-13 PATRICK/SADIE BETITO  
Dale Orthner

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-13-15 [[55](#)]

**CASE DISMISSED 1/22/15**

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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The case having previously been dismissed, the Order 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 is  
discharged as moot.

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6. [13-29812](#)-C-13 CARLOS/GLORIA BARAJAS  
DPC-1 Steele Lanphier

MOTION TO DISMISS CASE  
1-16-15 [[33](#)]

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**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.

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**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).**

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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 February 2, 2015. 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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<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$2,966.25 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,966.25 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. Debtor did not appear at the First Meeting of Creditors held on January 22, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting. The continued meeting is set for February 19, 2015.

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.

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8. [14-31815](#)-C-13 DAVID SEARS  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-8-15 [[29](#)]

**CASE DISMISSED 1/13/15**

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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The case having previously been dismissed, the Order 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 is  
discharged as moot.

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9. [14-29216](#)-C-13 STACY JOHNSON  
Richard Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-20-15 [[21](#)]

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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on January 13, 2015). The court docket reflects that on February 4, 2015, 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.

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**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.**

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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 January 21, 2015. 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).

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

1. Debtor is in material default with respect to the term of a confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtor has paid a total of \$11,050.60, with the last payment received on December 3, 2015. The Trustee shows a total of \$11,550.60 is due, so the Debtor is delinquent \$500 in plan payments. Debtor's monthly payment is \$250.00.

**DEBTOR'S RESPONSE**

Debtor states that her attorney's office is preparing a Modified Plan that resolves the delinquency. Debtor asserts the Modified Plan will be filed prior to the hearing on this Motion to Dismiss and that Debtor is making a good faith effort to remain current on her plan payments.

On February 13, 2015, Debtor filed a Modified Plan and Motion to Confirm. The Declaration explains the reason for the delinquency and how the Modified Plan will remedy the issue. As the Debtor is adequately prosecuting her Chapter 13 case, the court will deny the Motion to Dismiss

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.

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11. [13-23625](#)-C-13 STEVEN/LISA LEESE  
DPC-1 Mark Wolff

MOTION TO DISMISS CASE  
1-21-15 [[48](#)]

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**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.

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12. [14-30428](#)-C-13 SHARYL WOOLHART  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-26-15 [[33](#)]

Also #13

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**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 January 20, 2015). The court docket reflects that the fees were not paid.

**The Order to Show Cause is sustained and the case is dismissed.** 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 not having 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  
is dismissed.

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**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).**

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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 January 28, 2015. 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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<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$300.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$100.00 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
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 days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

3. Debtor did not appear at the Continued Meeting of Creditors held on January 15, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
4. 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).

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.

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**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).**

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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 January 22, 2015. 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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<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Trustee has requested and Debtor has not provided the Trustee with answers to certain questions about Debtor's business and other documentation.
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 days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
3. Debtor's plan was filed on December 29, 2014; however, it has not been served on all interested parties and no Motion to Confirm is pending.

The petition in this case was filed on November 30, 2014 and no plan was filed with the petition.

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.

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15. [14-32228](#)-C-13 RAJINDER/HARJINDER  
RANDHAWA  
Michael Benavides

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-23-15 [[21](#)]

**Also #16**

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**Tentative Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on January 20, 2015). The court docket reflects that the fee 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 not having 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  
is dismissed.

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16. [14-32228](#)-C-13 RAJINDER/HARJINDER  
DPC-1 RANDHAWA  
Michael Benavides

MOTION TO DISMISS CASE FOR  
UNREASONABLE DELAY THAT IS  
PREJUDICIAL TO CREDITORS,  
MOTION TO DISMISS CASE FOR  
FAILURE TO PROVIDE TAX  
DOCUMENTS, MOTION TO DISMISS  
CASE FOR FAILURE TO MAKE PLAN  
PAYMENTS AND/OR MOTION TO  
DISMISS CASE  
2-4-15 [[27](#)]

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**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 August 21, 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Debtors are \$4,486.32 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$4,486.32 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. Debtor did not appear at the First Meeting of Creditors held on

January 29, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.

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 date before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
4. Debtor has not filed all pre-petition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. § 1308 and 11 U.S.C. § 1325(a)(9).

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.

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17. [14-29430](#)-C-13 JOHNNIE REECE  
Richard Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-26-15 [[37](#)]

\*\*\*\*\*

**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on January 20, 2015). The court docket reflects that on January 26, 2015, 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.

\*\*\*\*\*

18. [13-29532](#)-C-13 MICHAEL CRONE AND  
DPC-1 CELESTINA YSAIS  
Kristy Hernandez

MOTION TO DISMISS CASE  
1-16-15 [[42](#)]

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**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 January 16, 2015. 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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Debtor is in material default under the plan because the plan will complete in more than the permitted 60 months. Trustee calculates that the plan will complete in 74 months, exceeding the time permitted under 11 U.S.C. § 1322(d). Class 1 mortgage arrears were \$9,273.60 greater than scheduled.

**DEBTORS' RESPONSE**

Debtors state that they do not oppose the Trustee's Motion to Dismiss and will file a modified plan correcting the problem prior to the February 18, 2015 hearing.

As of February 17, 2015, Debtors have not filed a Modified Plan and Motion to Confirm Modified Plan. Debtors remain in material default and 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.

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**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 (*pro se*) and Office of the United States Trustee on January 22, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. 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).
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 days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

Pursuant to 11 U.S.C. § 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.

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**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 February 2, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Debtors are \$1,581 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$527.00 is due on February 25, 2015. Debtor has paid \$2,635 into the plan to date.
2. Trustee's Objection to Confirmation was heard and sustained at the hearing on July 22, 2014. On September 25, 2014, Debtor filed and Amended Plan and Motion to Confirm, which were scheduled for hearing on November 18, 2014. On November 3, 2014, Debtor withdrew the Motion to Confirm and has not moved forward or reset the confirmation hearing.

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.

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21. [14-31338](#)-C-13 ROMMEL BALINGIT  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-22-15 [[29](#)]

Also #22

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**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 January 20, 2015). The court docket reflects that the fee was not paid.

**The Order to Show Cause is sustained** No appearance required.

The fees not having 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  
is dismissed.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 15, 2015. 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 grant and the case is dismissed.**

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

1. Debtor is \$2,715 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,715 is due on January 25, 2015. Debtor has paid \$0.00 into the plan to date.
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 days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
3. 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).
4. Debtor did not appear at the First Meeting of Creditors held on January 8, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.

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.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 21, 2015. 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 in material default under the terms of a confirmed plan because Debtor is delinquent \$2,950.80 in plan payments to the Trustee. 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.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 14, 2015. 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 \$4,960 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,245.00 is due on January 25, 2015. Debtor has paid \$8,290.00 into the plan to date.
2. Trustee's Objection to Confirmation was sustained at the hearing on December 9, 2014. Debtors have not filed an Amended Plan and Motion to Confirm.

Debtor has not filed an Amended Plan and has not submitted a response to the Trustee's Motion. 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.

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25. [14-29244](#)-C-13 CANDI MALONE  
Richard Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-20-15 [[29](#)]

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**Final Ruling:** The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on January 13, 2015). The court docket reflects that on February 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.

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**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 August 21, 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Debtors are \$200.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$200.00 is due on January 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. Debtor did not appear at the First Meeting of Creditors held on January 15, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
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).

4. 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).

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.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 21, 2015. 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 in material default under the terms of the confirmed plan. 11 U.S.C. § 1307(c)(6). Specifically, Debtor is delinquent in plan payments in the amount of \$1,200.

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.

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**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 February 2, 2015. 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 -----  
-----.

<b>The court's decision is to deny the Motion to Dismiss without prejudice.</b>
---

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

1. Debtors are \$4,160 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,080.00 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. Trustee's Objection to Confirmation was heard and sustained at the hearing on January 27, 2015. To date, Debtor has not filed an Amended Plan or set it for hearing.

#### DISCUSSION

On February 11, 2015, the Debtor filed an Amended Plan and Motion to Confirm Amended Plan. A review of the Declaration and Motion indicates that Debtor has prepared an Amended Plan that attempts to resolve the delinquency and the Trustee's objection to confirmation.

As the Debtor is adequately prosecuting her Chapter 13 case, the court does not find cause to dismiss the 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.

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.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 14, 2015. 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 \$100.00 delinquent in plan payments to the Trustee. The next scheduled payment of \$100.00 is due January 25, 2015. Debtor has paid \$400.00 into the plan to date.
2. Trustee's Objection to Confirmation was sustained by the court at the hearing on October 21, 2014. Debtor has not filed an Amended Plan and Motion to Confirm.

Debtor has not responded to the Trustee or taken action suggesting that an Amended Plan is to be 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 and the case is dismissed.

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**Final Ruling:** No appearance at the February 18, 2015 hearing is required.  
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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 January 16, 2015. 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 in material default under section 5.03 of the confirmed plan, which states:

If Debtor defaults under this plan, or if the plan will not be complete within six months of its stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion and setting it for hearing pursuant to Local Bankruptcy Rule 9014-1.

Debtor has not complied with Section C. Secured Claims 2.08(b)(4)(i). Class 1 creditor, Wells Fargo Bank, N.A., filed and served a Notice of Mortgage Payment Change with the court on September 3, 2014. This notice increased the Debtor's Class 1 Monthly Contract Installment Amount of \$1,673.61, effective October 15, 2014. The Debtors had not taken action to increased the confirmed payment plan of \$1,665.00. The Trustee notified Debtor's counsel and Debtor that the change had been made, but the plan remains unchanged and is no longer feasible.

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.

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31. [14-30880](#)-C-13 DEANDRA JACKSON  
Anthony Hughes

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
1-7-15 [[24](#)]

**Thru #33**

\*\*\*\*\*

**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 January 5, 2015). The court docket reflects that on January 13, 2015, 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.

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**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 February 2, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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 \$300.00 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.

Debtor has not responded to the Trustee or demonstrated to the court that the delinquency is remedied. 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.

\*\*\*\*

33. [14-30880](#)-C-13 DEANDRA JACKSON  
DPC-2 Anthony Hughes

MOTION TO DISMISS CASE  
2-2-15 [[39](#)]

**Final Ruling:** The instant Motion is a duplicate filing of Motion to Dismiss, DPC-2, ECF 35. The court is removing the duplicate filing from calendar.

34. [14-28882](#)-C-13 JENIFER/KENNETH STOUFFER MOTION TO DISMISS CASE  
DPC-2 James Bianchi 1-21-15 [[43](#)]

\*\*\*\*\*

**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.

\*\*\*\*\*

35. [13-24485](#)-C-13 ALLAN/RAQUEL TORNEROS MOTION TO DISMISS CASE  
DPC-1 Andrew Oldham 1-21-15 [[81](#)]

\*\*\*\*\*

**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.

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**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 February 2, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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 December 9, 2015. To date, Debtor has not filed an Amended Plan and set it for hearing.

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 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 (*pro se*), and Office of the United States Trustee on February 2, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Trustee notes that this Motion to Dismiss is not related to DPC-1 (Motion to Dismiss), which is set for continued hearing on April 1, 2015. Also, this Motion is not related to the Motion to Dismiss that was filed on November 10, 2014. This motion was filed separately due to matters not previously raised.
2. Debtor is \$6,969 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,323.00 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
3. Debtor did not appear at the First Meeting of Creditors held on November 6, 2015 or the Continued Meeting of Creditors on January 22, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the



meeting.

4. Trustee's Objection to Confirmation was heard and sustained at the hearing on December 9, 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.

\*\*\*\*\*

38. [14-32092](#)-C-13 NATHAN/MELANIE ROBINSON MOTION TO DISMISS CASE  
DPC-2 Mary Ellen Terranella 2-2-15 [[23](#)]

**Final Ruling:** The Chapter 13 Trustee having filed a Notice of Withdrawal on February 9, 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.

\*\*\*\*\*

**Final Ruling:** No appearance at the February 18, 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 January 21, 2015. 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 with respect to the term of a confirmed plan. 11 U.S.C. § 1307(c)(6). Debtor is delinquent in plan payments in the amount of \$4,884.25. Debtors' monthly payment is \$2,446.82.

Debtors have not responded to the Trustee and demonstrated they are 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.

\*\*\*\*\*

\*\*\*\*\*

**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 January 28, 2015. 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 -----  
-----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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

1. Debtor's Motion to Confirm was heard and denied on November 25, 2014. Debtor has not filed an Amended Plan and Motion to Confirm.
2. Debtor is \$3,146 delinquent in plan payments to the Trustee under the last plan pending. Debtor has paid \$9,582 to date, with the last payment of \$3,200 posted by the Trustee on January 5, 2015.

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.

\*\*\*\*\*

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**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 January 16, 2015. 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).

<b>The court's decision is to continue the hearing on the Motion to Dismiss to April 14, 2015 at 2:00 p.m.</b>
--

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

1. Debtor is in material default of section 5.03 of the plan because, according to the Trustee's calculations, the plan will complete in 80 months. This term length exceeds the 60 months limit of 11 U.S.C. § 1322(d). It appears the Class 1 mortgage arrears claim to be paid through the plan was \$7,884.67 greater than expected.

**DEBTOR'S RESPONSE**

Debtor states that his Class 1 mortgage arrears as reflected in the plan is correct and that the claim filed by his mortgage company does not account for mortgage payments made in his prior Chapter 13 case.

Debtor is attempting to have the mortgage company's claim correct. If the mortgage company does not correct the mistake, Debtor anticipates filing an Objection to the Claim.

**DISCUSSION**

The docket shows that on February 11, 2015, the Debtor filed an Objection to the Claim of th mortgage lender. The hearing for the Objection is April 14, 2015. Resolution of this Objection is necessary for the court to make a determination on the Motion to Dismiss. Therefore, the court will continue the Motion to Dismiss to April 14, 2015 at 2:00 p.m.

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 continued to April 14, 2015 at 2:00 p.m.

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\*\*\*\*\*

**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 January 22, 2015. 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 -----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

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 January 15, 2015. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
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 days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).



3. Trustee is unable to determine Debtor's income because of inconsistencies on Schedule I.

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.

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43. [14-30098](#)-C-13 MARK/DEBRA HICKEY  
DPC-1 Peter Macaluso

MOTION TO DISMISS CASE  
1-21-15 [[33](#)]

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**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.

\*\*\*\*\*