

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge

Modesto, California

February 20, 2025 at 1:00 p.m.

1. [25-90013-E-7](#)

ABRIEL/ESMERALDA

RODRIGUEZ

Pro Se

NOTICE OF INCOMPLETE FILING AND  
NOTICE OF INTENT TO DISMISS  
CASE, MOTION TO RECONSIDER  
DISMISSAL OF CASE  
1-13-25 [4]

**Tentative Ruling:** 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)(C).**

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Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The court set the hearing for February 20, 2025. Dckt. 27.

The Motion to Vacate Order Dismissing the Case was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the Chapter 7 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 offer 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. At the hearing -----

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**The Motion to Vacate the Order Dismissing the Case is xxxxxxx.**

On January 13, 2025 Debtors Abriel Rodriguez and Esmeralda Rodriguez commenced this voluntary Chapter 13 Case by the filing of the Bankruptcy Petition. Dckt. 1. The Clerk of the Court issued a Notice of Incomplete Filing and Notice of Intent to Dismiss if Documents Are Not Timely Filed on January 13, 2025. Dckt. 4. The missing documents include the Schedules, the Statement of Financial Affairs, and Statement of Monthly Income. The Notice states that the missing Statement of Social Security Number document must be filed by January 21, 2025, and the other missing documents must be filed by January 27, 2025, or the Case will be dismissed. The Notice also states that Debtors may file a Motion for

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Extension of Time to File the Missing Documents or file a Notice and set a hearing for the Notice of Intent to Dismiss. *Id.*, p. 2.

The documents were not timely filed, no extension of the deadline to file was requested, and no hearing was set for the Notice of Intent to Dismiss. On January 24, 2025, the Clerk of the Court entered an Order dismissing this Bankruptcy Case, the Statement of Social Security Number not having been filed. Dckt. 14.

On February 4, 2025, the Debtors filed a Motion to Reopen Case/Not Dismiss Case and put Back on Calendar (EDC Form 003-020, Motion to Reopen Case form). Dckt. 16. The grounds stated for vacating the dismissal in the Motion are:

PLEASE RECONSIDER NOT DISMISSING OUR CASE AND HAVE IT PUT BACK ON THE CALENDAR. WE DID NOT TAKE TIME OFF OF WORK TO GO AND PERSONALLY FILE THE DOCS. I UPLOADED THEM ON THE DEBTOR DROP[M BO *[sic]*

*Id.*

A check of the court records show that this is this first bankruptcy case filed by the Debtors, either jointly or individually. The Petition states that they paid a person to help them fill out the bankruptcy forms, a person identified as “Ruiz, Carmen Lydia.” Dckt. 1 at p. 8.

The 341 Meeting of Creditor was scheduled for February 12, 2025. Notice of Chapter 7 Bankruptcy Case. Dckt. 9; ¶ 7. The deadlines for filing objections to discharge and for nondischargeability of debt has been set for April 14, 2025. *Id.*; ¶ 9.

On January 13, 2025, the Debtors filed an Application to have the Chapter 7 Filing Fee Waived. Dckt. 6.

While stating in the Petition that they are paying someone to assist them in filling out the forms, there is no indication as to whether the Debtors attempted to find counsel to represent them or sought assistance from bankruptcy clinics at local law schools, such as the Bankruptcy Clinic at McGeorge School of Law in Sacramento, California.

On February 12, 2025, Debtor filed the following missing forms:

1. Schedule A–J, Docket 19;
2. Statement of Intention, Docket 20;
3. Statement of Current Monthly Income Form 122A-1, Docket 21;
4. Statement of Social Security Number(s), Docket 22;
5. Certificate of Credit Counseling(s) as to Debtor and Joint Debtor, Docket 23;
6. Disclosure of Compensation by Bankruptcy Petition Preparer, Docket 24.

At the hearing, **XXXXXXX**

The court shall issue an 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 Vacate Order Dismissing the Case filed by Abriel Rodriguez and Esmeralda Rodriguez (“Debtor”) 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 is **XXXXXXX**.