

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

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

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: February 25, 2025

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

February 25, 2025 at 1:00 p.m.

1. [24-90603](#)-B-13 GEORGE JACOB MOTION TO DISMISS CASE
[LGT](#)-2 David C. Johnston 1-28-25 [[43](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. 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)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to dismiss case.

Debtor is not eligible to be a Chapter 13 debtor pursuant to the unsecured debt limits set forth in 11 U.S.C. § 109(e). The unsecured debt limit for an eligible debtor in Chapter 13 is \$465,275.00. Fifteen unsecured proof of claims filed totaling \$613,151.50. To date, Debtor has not objected to any of the unsecured proof of claims or contested the documents filed with the proof of claims.

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

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

The court will issue an order.

February 25, 2025 at 1:00 p.m.

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2. [23-90506](#)-B-13 KARLA GREER-TLASCALA MOTION TO DISMISS CASE
[LGT](#)-2 Simran Singh Hundal 1-24-25 [[33](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. 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)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to convert case.

Debtor has failed to make all payments due under the plan. Payments are delinquent in the amount of \$1,896.00. In addition to the above amount, Debtor must also continue to make the monthly plan payment of \$925.00 for January 25, 2025.

Based on Debtor's schedules and should Debtor choose to amend Schedule C exemptions, there would remain non-exempt equity that may be available for the benefit of unsecured creditors. Therefore, cause exists to convert this case. The motion is granted and the case is converted.

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

The court will issue an order.

3. [24-90710](#)-B-13 CHIQUITA STARK
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-27-25 [[37](#)]

DEBTOR DISMISSED: 02/02/25

Final Ruling

The case having been dismissed on February 2, 2025, the order to show cause is discharged as moot.

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

The court will issue an order.

4. [24-90212](#)-B-13 HELEN SILVA
[LGT](#)-1 Mikalah Liviakis

MOTION TO DISMISS CASE
1-23-25 [[30](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. 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)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to dismiss case.

Debtor has failed to make all payments due under the plan. Payments are delinquent in the amount of \$5,475.00. In addition to the above amount, the monthly plan payment of \$1,825.00 for January 25, 2025, will come due.

Separately, a Notice of Death of Debtor was filed on October 6, 2024.

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

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

The court will issue an order.

5. 24-90677-B-13 TODD KOVACS
LGT-1 Pro Se

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
12-19-24 [[20](#)]

DEBTOR DISMISSED: 02/05/25

Final Ruling

The case having been dismissed on February 5, 2025, the continued objection to confirmation is overruled as moot.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. 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)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion to dismiss case.

First, Debtor failed to appear and testify at the initial 341 meeting of creditors on January 2, 2025. 11 U.S.C. § 341 and/or Fed. R. Bankr. P. 4002.

Second, Debtor failed to provide various required documents to the Chapter 13 Trustee ("Trustee") including: copies of all payment advices or other evidence of payment received within 60 days before the date of filing of the petition; all pages of the most recent federal tax return filed by the debtor; copy of original valid picture ID; proof of Debtor's complete social security number.

Third, Debtor failed to provide requested documents to the Trustee, including: all pages of the last two Federal and State Tax Returns filed for all entities in which the debtor has an interest; monthly profit and loss statements for the full six months prior to filing; copies of the IRS Form 941, EDD for DE-6 and proof of payment for the quarter ending prior to the filing of the case; copies of State Board of Equalization sales tax returns and proof of payment for the quarter ending prior to the filing of the case; list of all inventory and equipment, current values, dates of purchase and values when purchased; list of any and all funds, accounts receivables, pending escrows, etc., owed to the business at the time of filing; Business Case Questionnaire; and copies of bank statements for the full six months prior to filing for all bank accounts of the debtor.

Fourth, the Amended Disclosure of Compensation form filed December 30, 2024, does not match the form provided on the court's website. There is information missing from question #5.

Fifth, Debtor has failed to commence making plan payments. As of January 06, 2025, payments are delinquent in the amount of \$675.00. While this motion is pending further payments, will come due. In addition to the delinquency amount, Debtor must also make the monthly plan payment of \$675.00 for January 25, 2025. 11 U.S.C. § 1307(c).

Debtor's failure to fulfill his duties is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

The court will issue an order.

Final Ruling

The objection has been set for hearing on at least 28-days the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). 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)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed by debtor Sheila Price ("Debtor")

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

The court's decision is to sustain the objection to discharge.

The Chapter 13 Trustee ("Trustee") objects to the entry of chapter 13 discharge on grounds that Debtor filed the instant case on March 15, 2019, which was less than 4 years after she had filed for chapter 7 bankruptcy on April 10, 2015, and received a discharge on August 17, 2015, case no. 15-90355. See 11 U.S.C. § 1328(f)(1).

Debtor filed a response stating that she was not aware at the time of filing this chapter 13 case that there was a 4-year waiting period because she had filed the case pro se. An attorney was substituted in only afterwards on May 13, 2019. Debtor requests that the court consider her status as an initial pro se filer and that only 26 days remained for her to qualify for filing for chapter 13 relief and not be in violation of 11 U.S.C. § 1328(f)(1).

Discussion

11 U.S.C. § 1328(f)(1) provides:

Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge-

(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter,

(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.

The statute has only three elements for the discharge bar to trigger under § 1328(f)(1).

First, the debtor must have received a prior bankruptcy discharge. Here, Debtor received a discharge on August 17, 2015.

Second, the prior case must have been filed under Chapters 7, 11, or 12. Here, Debtor had filed the prior case under chapter 7.

Third, the case in which the discharge was received must have been filed during the 4-year period preceding the date of the order for relief under this chapter 13 case. The third element represents a significant change to the Bankruptcy Code, which previously imposed no time limitations for obtaining a discharge in a chapter 13 case filed after issuance of a discharge in a chapter 7 case.

Before BAPCPA, chapter 20 debtors could obtain a chapter 13 discharge

after having received a discharge in chapter 7 without restriction. The Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA") enacted in 2005 imposed a restriction by adding § 1328(f), which states that a court cannot grant debtors a discharge in a chapter 13 case filed within four years of the filing of a case wherein a discharge was granted in chapter 7. § 1328(f)(1).

Boukatch v. MidFirst Bank (In re Boukatch), 533 B.R. 292, 297 (9th Cir. BAP 2015).

Regarding the circumstances wherein a debtor receives a chapter 7 discharge and then files a subsequent chapter 13 petition the statute is clear – the court shall not grant a discharge in these circumstances.

Relatively unambiguously, new § 1328(f)(1) states mandatorily that the court "shall not" grant a discharge if the debtor received a discharge in a Chapter 7, 11 or 12 case "filed . . . during the 4-year period preceding the date of the order for relief under this chapter." The counting rule here is clear: the 'order for relief under this chapter' would be the date of filing the current Chapter 13 petition; the four-year period would run from the date of filing of the prior case in which the debtor received a discharge. In other words, the four-year bar to successive discharges runs from the filing of a prior Chapter 7 (11 or 12) case to the filing of the current Chapter case."

Keith M. Lunden, *Lunden On Chapter 13*, §152.2 at ¶ 3 (2021).

This Chapter 13 case was filed on March 15, 2019. Because less than 4 years has passed since the filing of Debtor's previous chapter 7 case on April 10, 2015, Debtor is not eligible for a discharge in this chapter 13 case. Debtor also has not provided any legal authority for which the court can impose an exception to 11 U.S.C. § 1328(f)(1). The court will sustain the trustee's objection to discharge.

The objection is ORDERED SUSTAINED for reason stated in the minutes.

The court will issue an order.

Final Ruling

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

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

The court's decision is to **conditionally grant the motion to convert case and continue the matter to March 4, 2025, at 1:00 p.m.**

Debtor has failed to make all payments due under the plan. Payments are delinquent in the amount of \$3,500.00. In addition to the above amount, Debtor must also continue to make the monthly plan payment of \$1,750.00 for February 25, 2025.

Based on Debtor's schedules and should Debtor choose to amend Schedule C exemptions, there would remain non-exempt equity that may be available for the benefit of unsecured creditors. Therefore, cause exists to convert this case. The motion is conditionally granted and the case will be converted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, February 28, 2025, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on March 4, 2025, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on March 4, 2025, at 1:00 p.m.