

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

March 5, 2025 at 9:00 a.m.

1. 24-22599-E-13 DPC-1	JAMES JOHNSON Candace Brooks	CONTINUED MOTION TO DISMISS CASE 12-11-24 [48]
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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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 December 11, 2024. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The hearing on the Motion to Dismiss is denied without prejudice.
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March 5, 2025 Hearing

The court continued the hearing on this Motion to allow Debtor to sell his residence and prosecute the Modified Plan. The court granted the Motion to sell on January 28, 2025. Docket 80. The court confirmed the Modified Plan on February 20, 2025. Docket 87.

This case proceeding, the Motion to Dismiss is denied without prejudice.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, James Roy Johnson (“Debtor”), is delinquent \$161,645.00 in plan payments. Debtor will need to have paid \$323,750.00 to become current by the hearing date. Mot. 1:19-22, Docket 48.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 50.

DEBTOR'S RESPONSE

Debtor filed a Response on January 8, 2025. Docket 63. Debtor informs the court he has a Motion to Sell his residence on January 9, 2025, to pay all creditors in full. Debtor seeks the Motion be denied so the creditors can be paid and the sale completed.

DISCUSSION

Delinquent

There is a massive delinquency in this case, Debtor's Plan calling for a sale of the home to pay creditors. Am. Plan, Docket 55. Debtor has filed a Motion and supporting documents showing a sale is in place to pay creditors. The hearing on the Motion to Sell is set for January 28, 2025. Ord Shortening Time; Dckt. 74).

The court continues the hearing to 9:00 a.m. on March 5, 2025, to afford the Debtor time to prosecute the sale of the Property and the Trustee time to determine whether he wants to pursue this Motion if the court grants the Motion to Sell.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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.

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 5, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<p>The Motion to Dismiss is xxxxxxx.</p>
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Rachel Leilani Bagwell ("Debtor"), failed to propose an Amended Plan after the court sustained Trustee's Objection to the previous Plan on December 10, 2024. Mot. 1:24-26, Docket 33.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 35.

DEBTOR'S RESPONSE

Debtor filed a Response on February 17, 2025. Docket 38. Debtor states she has proposed an Amended Plan on February 13, 2025.

Trustee filed a Reply and stated he is fine with his Motion being denied with the Plan is set for a confirmation hearing.

CREDITOR'S RESPONSE

Creditor Randy Murieen ("Creditor") filed a Response on February 27, 2025. Docket 41. Creditor is in support of dismissing the case, stating:

1. The Amended Plan is not fair, not proposing payment to Class 2 secured creditors until the 13th month of the Plan. Opp'n 2:1-12.

2. The Plan does not do enough to cure property taxes owed in the amount of \$27,000. *Id.* at 2:3-11.
3. The case is not being diligently prosecuted, there still being no Motion to Confirm on file. *Id.* at 2:12-20.

DISCUSSION

Delay of Confirmation

Debtor did not file a Motion to Confirm the Amended Plan following the court's denial of confirmation to Debtor's prior plan on December 10, 2024. A review of the docket shows that Debtor has filed a new plan, but the plan has not been set for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **XXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 November 22, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Therefore, the defaults of the respondent and other parties in interest are entered.

The Motion to Dismiss is XXXXXXX.

March 5, 2025 Hearing

The court continued the hearing on the Motion, this being a unique case where Debtor had one final payment to make to complete a Plan that would pay 100% to general unsecured creditors. A review of the Docket on February 27, 2025 reveals nothing new has been filed with the court.

At the hearing, XXXXXXX

Important Matter to Address

Debtor’s counsel of record is no longer practicing law in the State of California. No new counsel has been substituted in place of the prior counsel.

The information provided by the Trustee states that the Debtor in “only” delinquent \$2,547.65, the payment of which is necessary to complete the Plan. This represents approximately four monthly payments. The Chapter 13 Plan provides for a 100% dividend for creditors holding general unsecured claims. Dckt. 3 at p. 5.

The court also notes that Resurgent Capital Services filed a Withdrawal of Proofs of Claims 3, 4, 5, and 6, the dollar amounts of which aggregate (\$7,552.44) in general unsecured claims. There is only

(\$1,616.66) in other general unsecured claims. The only other creditor being paid through the Plan is Yolo County for its property tax claim.

Thus, while the Debtor may be on the edge of completing the Plan for a small dollar amount, it appears that Debtor may have dealt with the property tax claim outside of the Plan and has obviated the need for completing the Plan.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Armando Gonzalez and Yolanda Gonzalez (“Debtor”), is delinquent \$2,547.65 in plan payments. Debtor will need to have paid \$2,547.65 to become current by the hearing date. Mot. 1:25-28, Docket 32. Debtor is in month 67 of a 60-month plan so no further payment is required prior to the hearing. Mot. 1:26-28, Docket 32.
2. According to the Trustee’s records, debtor owns \$359,925.00 in non-exempt equity. Mot. 2:3-4, Docket 32. Trustee states due to various factors, including the nature of the assets, this being Debtor’s first bankruptcy filing, the fact that Debtor is in month 67 of a 60-month plan and also that it does not appear the Debtor is acting in bad faith, the Trustee believes that conversion to Chapter 7 is not in the best interest of creditors. Mot. 2:5-9, Docket 32.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 34.

DEBTOR’S RESPONSE

Debtor has not filed a Response as of January 13, 2025.

DISCUSSION **Delinquent**

Debtor is \$2,547.65 delinquent in plan payments. As Debtor is in month 67, the amount to complete the Plan is the delinquent amount of \$2,547.65.

At the hearing, the Parties agreed to continue the hearing to afford Debtor, who has one plan payment remaining, an additional opportunity to complete the Chapter 13 Plan.

The hearing is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

4. <u>24-25221-E-13</u> <u>DPC-1</u>	TAISHAWN/CATHEREAN MITCHELL Peter Macaluso	CONTINUED MOTION TO DISMISS CASE 12-27-24 <u>[40]</u>
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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).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 December 27, 2024. By the court’s calculation, 26 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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.

The Motion to Dismiss is **XXXXXXX.**

March 5, 2025 Hearing

Debtor was delinquent in plan payments, so Trustee moved to dismiss. However, as new counsel substitute in on behalf of Debtor, the Parties agreed to a continuance. A review of the docket on February 27, 2025 reveals nothing new has been filed with the court related to this Motion.

At the hearing, **XXXXXXX**

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Taishawn Khairi Mitchell and Catherean Bobbie Cheronn Mitchell (“Debtor”), is delinquent \$1,900 in plan payments. Debtor will need to have paid \$3,800 to become current by the hearing date. Mot. 1:25-2:2, Docket 40.
2. Debtor has not served the notice of commencement, plan, and motion to confirm on interest parties, despite this court ordering Debtor to do so on December 20, 2024. Order, Docket 33.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 42.

DISCUSSION

Delinquent

Debtor is \$1,900 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The court ordered Debtor to serve the Plan and Motion to Confirm on interested parties. Order, Docket 33. Failure to serve the Plan and Motion also amount to unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The Trustee reported that the Debtor is still delinquent \$1,900 in plan payments. However, with new counsel substituting in for the Debtor, the Parties agreed to continued the hearing,

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Thomas Edwin Matlock Knoernschild ("Debtor"), is delinquent \$389.59 in plan payments. Debtor will need to have paid \$1,139.17 to become current by the hearing date. Mot. 1:19-22, Docket 121.

Trustee submitted a Declaration without a signature or name of declarant.

At the hearing, **XXXXXXX**.

DEBTOR'S RESPONSE

Debtor filed a Response on February 18, 2025. Docket 125. Debtor states the delinquency has been cured.

DISCUSSION

Delinquent

Debtor is \$389.59 delinquent in plan payments, which represents approximately one month of the plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtor has indicated the delinquency is cured. 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

6. [24-25632-E-13](#) **ALEXANDER PEREZ** **MOTION TO DISMISS CASE**
[DPC-1](#) **Pro Se** **2-5-25 [29]**

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.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 5, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

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

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Alexander Perez (“Debtor”), is delinquent \$350.00 in plan payments. Debtor will need to have paid \$700 to become current by the hearing date. Mot. 1:26-2:4, Docket 29.
2. Debtor failed to appear and was not examined at the First Meeting of Creditors held on January 30, 2025. *Id.* at 1:22-23.
3. Debtor failed to submit proof of her Social Security number and identification to the Trustee. *Id.* at 2:6-7.
4. Debtor failed to provide 11 U.S.C. § 521 documents, including pay advices and tax returns.

5. Debtor has failed to file a Motion to Confirm the Plan. *Id.* at 2:21-22.
6. The Plan, Schedules and other documents filed with the Court appear to be blank, incomplete or inaccurate. *Id.* at 2:25-26.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 31.

DISCUSSION

Delinquent

Debtor is \$350.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failed to Appear at § 341 Meeting of Creditors

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

Failure to Authenticate Identification Prior to Meeting of Creditors

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity;
and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause for dismissal.

Failure to Provide Pay Stubs / Pay Advices

Debtor has not provided Trustee with employer payment advices for the sixty-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). Debtor has failed to provide all necessary pay stubs. That is cause for dismissal. 11 U.S.C. § 1325(a)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). Debtor has failed to provide the tax transcript. That is cause for dismissal. 11 U.S.C. § 1325(a)(1).

Other Issues

It appears Debtor has not filed the Motion to Confirm nor the proper documentation with accurate information. Debtor must comply with filing requirements in order to prosecute this case. Failing to do so is prejudicial creditors. 11 U.S.C. § 1307(c).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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: 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.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Rudy Valentino Raya and April Michelle Raya ("Debtor"), is delinquent \$2,788.59 in plan payments. Debtor will need to have paid \$8,453.41 to become current by the hearing date. Mot. 1:19-22, Docket 61.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 63.

On February 26, 2025, Trustee filed a Status Report with the court. Docket 65. Trustee states a portion of the delinquency has been cured, leaving only a delinquency of \$2,908.41.

DISCUSSION

Delinquent

Debtor is \$2,788.59 delinquent in plan payments, which represents approximately one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor has cured some of the delinquency. 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

8. [24-22941-E-13](#) **CYNTHIA MILLER** **MOTION TO DISMISS CASE**
[DPC-2](#) **Gabriel Liberman** **1-17-25 [38]**

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.

Local Rule 9014-1(f)(1) Motion— Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Cynthia Denise Miller (“Debtor”), is delinquent \$9,276.67 in plan payments. Debtor will need to have paid \$27,830.01 to become current by the hearing date. Mot. 1:19-22, Docket 38.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 40.

Opposition

On February 28, 2025, the Debtor filed an untimely Opposition, stating that the default would be cured before the hearing.

DISCUSSION

Delinquent

Debtor is \$9,276.67 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **XXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

~~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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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: 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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Jerry Laverne Rankin and Sanda Marie Rankin ("Debtor"), is delinquent \$5,438.43 in plan payments. Debtor will need to have paid \$11,289.17 to become current by the hearing date. Mot. 1:17-23, Docket 36.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 38.

DEBTOR'S RESPONSE

Debtor filed a Response on February 18, 2025. Docket 40. Debtor states the delinquency will be cured by the hearing date.

DISCUSSION

Delinquent

Debtor is \$5,438.43 delinquent in plan payments, which represents multiple months of the \$2,925.37 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states they will become current. At the hearing XXXXXXX

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case~~
is 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

10. [24-24047](#)-E-13
[DPC-1](#)

RAQUEL BURKE
Gabriel Liberman

CONTINUED MOTION TO DISMISS
CASE
12-11-24 [25]

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 December 11, 2024. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The hearing on the Motion to Dismiss is XXXXXXX.
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March 5, 2025 Hearing

The court continued the hearing on this Motion as Debtor had reported she is receiving a disability benefit payment and with that can fund the Chapter 13 Plan. A review of the Docket on February 27, 2025 reveals nothing new has been filed.

At the hearing, **XXXXXXX**

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Raquel Helen Burke (“Debtor”), is delinquent \$1,719.80 in plan payments. Debtor will need to have paid \$3,379.70 to become current by the hearing date. Mot. 1:19-22, Docket 25.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 27.

DEBTOR’S RESPONSE

Debtor filed a Response on January 7, 2025. Docket 29. Debtor states the delinquency will be cured prior to the hearing date. Response 1:19, Docket 29.

DISCUSSION

Delinquent

Debtor is \$1,719.80 delinquent in plan payments, which represents multiple months of the \$1,659.90 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing counsel for the Trustee reported that Debtor is \$1,379.70 delinquent.

Counsel for debtor reported that Debtor now is receiving a disability benefit payment and with that can fund the Chapter 13 Plan. With that information, the Parties agreed to continue the hearing.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 5, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<p>The Motion to Dismiss is granted, and the case is dismissed.</p>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Michael Anthony Parra ("Debtor"), is delinquent \$2,182.00 in plan payments. Debtor will need to have paid \$4,364.00 to become current by the hearing date. Mot. 2:3-9, Docket 15.
2. Debtor failed to submit proof of his Social Security number and identification to the Trustee prior to the First Meeting of Creditors. *Id.* at 1:23-24.
3. Debtor failed to provide 11 U.S.C. § 521 documents, including pay advices and tax returns.
4. Debtor has a monthly net income of (\$3,546.15) and cannot fund a Plan. *Id.* at 2:23-25.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 17.

DISCUSSION

Delinquent

Debtor is \$2,182.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Authenticate Identification Prior to Meeting of Creditors

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause for dismissal.

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Pay Advices

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Feasability

Debtor's Schedule J at Docket 1, page 42 reveals a negative income of (\$3,546.15). 11 U.S.C. § 109(e) only permits a debtor with regular monthly income to be in Chapter 13. Lack of eligibility is cause for dismissal.

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

12. [22-23054-E-13](#)
[DPC-2](#)

KIMBERLY JORDAN
Mark Shmorgon

MOTION TO DISMISS CASE
1-17-25 [45]

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is xxxxxxx.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Kimberly Jordan (“Debtor”), is delinquent \$884.00 in plan payments. Debtor will need to have paid \$1,768.00 to become current by the hearing date. Mot. 1:19-22, Docket 45.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 47.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on February 14, 2025. Dockets 49, 50. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$884.00 delinquent in plan payments, which represents multiple months of the \$442 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states she will be current by the hearing dated. Indeed, Trustee notified a payment is processing now to cure the delinquency. Reply, Docket 52. 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

13. [24-24554-E-13](#)
[DPC-1](#)

JOLENE NORTON
Peter Macaluso

CONTINUED MOTION TO DISMISS
CASE
12-10-24 [28]

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.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 December 10, 2024. By the court’s calculation, 43 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

The Motion to Dismiss is XXXXXXX.

March 5, 2025 Hearing

The court continued the hearing on this Motion to afford Debtor time to find and obtain counsel. On February 18, 2025, Mr. Macaluso substituted in the case to represent Debtor. Mr. Macaluso filed an Opposition to this Motion on that same day and requested denial or a continuance in light of his substitution.

Docket 53. Trustee filed a Response on February 26, 2025, agreeing with a continuance or, if Debtor files an Amended Plan and sets it for hearing, requesting denial of his Motion. A review of the Docket on February 28, 2025 reveals no Amended Plan has been filed with the court.

At the hearing, **XXXXXXX**

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jolene Norton (“Debtor”), is delinquent \$700.00 in plan payments. Debtor will need to have paid \$1,400 to become current by the hearing date. Mot. 2:5-10, Docket 28.
2. Debtor failed to appear and was not examined at the First Meeting of Creditors held on December 5, 2024. *Id.* at 1:24-25.
3. Debtor failed to provide to Trustee with verification of both the Social Security number and identification. *Id.* at 2:2-3.
4. Debtor failed to provide the 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). *Id.* at 2:12-15.
5. Debtor has failed to provide the Trustee with any tax transcript or copies of the Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required. *Id.* at 2:16-20.
6. The Plan has been incorrectly filled out. Debtor has not provided a duration for the Plan, and no creditors have been listed. *Id.* at 2:21-3:2.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 30.

DISCUSSION

Delinquent

Debtor is \$700.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failed to Appear at § 341 Meeting of Creditors

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

Failure to Authenticate Identification

Prior to Meeting of Creditors

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause for dismissal.

Failure to Provide Pay Stubs

Debtor has not provided Trustee with employer payment advices for the sixty-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). Debtor has failed to provide all necessary pay stubs. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). Debtor has failed to provide the tax transcript. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Incomplete Plan

Finally, Debtor has submitted a Plan that omits many key elements. Debtor has not listed creditors or priority debts, Debtor has not provided a duration for the Plan, and Debtor has not scheduled any dividend to general unsecured claims. Such a Plan is not confirmable, Trustee having no direction on how to administer plan payments.

At the hearing counsel for the Trustee reported that the only thing that has been cured is the delinquency. The 341 Meeting has been continued.

The outstanding documents have not been provided as of this time.

Debtor appeared at the hearing and was accompanied by her Daughter. Debtor explained that she has paid money to Progressive Elite Group to assist her with the filing of bankruptcy, but at the last minute they would not file the case for her.

The Debtor and her Daughter explained that they were trying to do it themselves.

The court discussed with the Debtor and her Daughter that consumer service bankruptcy clinics exist, such as the Bankruptcy Clinic at McGeorge Law School, as well as that in light of the substantial equity in her home, Debtor may well want to seek the assistance of counsel (who can substantially be paid through the Chapter 13 Plan) to protect her assets.

The Trustee agreed to a continuance of the hearing to afford Debtor and her Daughter to seek out legal assistance.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

14. 18-27963 -E-13 DPC-8	EUFEMIO/LIZA SEGUBAN Peter Macaluso	MOTION TO DISMISS CASE 1-17-25 [175]
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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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Eufemio Ordonia Seguban and Liza Frani Seguban (“Debtor”), is delinquent \$1,370.00 in plan payments. Debtor will need to have paid \$2,740.00 to become current by the hearing date. Mot. 1:19-22, Docket 175.

Trustee submitted the Declaration of Kristen Koo / Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 177.

DEBTOR’S RESPONSE

Debtor filed a Response on February 18, 2025. Docket 179. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$1,370.00 delinquent in plan payments, which represents multiple months of the \$685 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 December 11, 2024. By the court's calculation, 42 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<p>The Motion to Dismiss is granted, and the case is dismissed.</p>
--

March 5, 2025 Hearing

The hearing on the Motion to Dismiss was continued to allow Debtor an opportunity to cure the delinquency. Trustee filed a Reply on February 26, 2025, informing the court that not only have cure payments not been made, but Debtor has since missed a regular payment, so the delinquency has grown to \$1,530. At the hearing, **XXXXXXX**

The Motion is granted.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Bonnie Sue Pyeatt ("Debtor"), is delinquent \$772.00 in plan payments. Debtor will need to have paid \$1,158.00 to become current by the hearing date. Mot. 1:19-22, Docket 75.

Trustee submitted an unsigned Declaration with an unnamed declarant. Docket 77. The corrected Declaration was filed on January 22, 2025. Dckt. 84.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on January 7 and 9, 2025. Dockets 79, 81. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$772.00 delinquent in plan payments, which represents multiple months of the \$386.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor asserts the delinquency will be cured.

At the hearing, counsel for the Trustee reported that the delinquency remains, but agreed to continue the hearing to March 5, 2025.

The hearing is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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: 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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 November 8, 2024. By the court's calculation, 75 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

March 5, 2025 Hearing

The court continued the hearing on the Motion as it appeared Debtor was prosecuting this case, selling his residence to pay his creditors. Trustee filed a Reply on February 26, 2025. Docket 71. Trustee states Debtor has a hearing set to confirm their Modified Plan; however, Debtor has missed the February payment.

At the hearing, XXXXXXX

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Andrew Francis Newbold and Joanna Hennessee Newbold ("Debtor"), is delinquent \$12,876.00 in plan payments. Mot. 1:24, Docket 30.
2. Trustee objected to confirmation of the Debtor's original Plan, which was sustained at hearing on September 10, 2024. The Debtors have failed to file an amended Plan and set a hearing for confirmation. *Id.* at 2:3-6.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 32.

DEBTOR'S RESPONSE

Debtor filed a Response on January 8, 2025. Docket 36. Debtor has informed the court there will be an Amended Plan on file shortly. Moreover, Debtor has filed a Motion to Employ real estate broker to sell their home and an accompanying Motion to Sell. The hearing on the Motion to Sell is set for January 28, 2025.

DISCUSSION

Delinquent

Debtor is \$12,876.00 delinquent in plan payments, which represents more than a month of the \$9,139.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

It appears Debtor is prosecuting this case, selling their residence to pay creditors.

The court continues the hearing to 9:00 a.m. on March 5, 2025, to allow the Motion to Sell be prosecuted and to provide the Trustee with time to determine whether such sale will resolve the delinquency.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Francisco Javier Garcia Chavez ("Debtor"), is delinquent \$4,500.00 in plan payments. Debtor will need to have paid \$9,000.00 to become current by the hearing date. Mot. 1:19-22, Docket 34.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 36.

Trustee filed a Status Report stating that there were electronic payments processing that would bring the Plan current. Docket 38. If the payments clear, then Trustee request the Motion be denied.

DISCUSSION

Delinquent

Debtor is \$4,500.00 delinquent in plan payments, which represents multiple months of the \$9,000.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Updating the court on whether the payments cleared, 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 **XXXXXXX**.

18. [24-22192-E-13](#) **CHRISTOPHER TULLY** **MOTION TO DISMISS CASE**
[DPC-2](#) **Eric Schwab** **2-5-25 [52]**

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 5, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Christopher Allen Tully (“Debtor”), failed to file an Amended Plan after Debtor’s prior Amended Plan was denied on October 9, 2024. Mot. 1:21-24, Docket 52.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 54.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on February 18, 2025. Dockets 56, 57. Debtor states pending state court litigation regarding the dissolution of his marriage has been concluded, so Debtor will be proposing an Amended Plan and set it for confirmation prior to the hearing on this Motion.

Trustee agrees his Motion should be denied if there is an Amended Plan filed, but there is no Amended Plan filed and set for hearing as of yet. Docket 59.

DISCUSSION

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on October 9, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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 **XXXXXXX**.

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).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 December 27, 2024. By the court’s calculation, 26 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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.

The hearing Motion to Dismiss is XXXXXXX.

March 5, 2025 Hearing

The court continued the hearing on this Motion so Debtor could have a Plan filed. On February 26, 2025, Trustee filed a Status Report with the court requesting the Motion be granted. Docket 60. Trustee states Debtor is again delinquent, and Debtor has not filed an Amended Plan.

However, on February 27, 2025, Debtor filed the Amended Plan with supporting evidence and a Motion to Confirm. Dockets 63-66. At the hearing, XXXXXXX

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Wlodzimierz Jan Litwin (“Debtor”), is delinquent \$420 in plan payments. Mot. 1:25, Docket 30.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 32.

DEBTOR'S RESPONSE

Debtor filed a Response on January 7, 2025. Docket 40. Debtor acknowledges the delinquency but does not provide for curing the delinquency.

TRUSTEE'S REPLY

Trustee file a Reply on January 9, 2025. Docket 43. Trustee states Debtor's Response is ambiguous with no evidence in support. Trustee recommends dismissal, noting Debtor has not filed a new Plan since the court denied confirmation of the previous Plan.

DISCUSSION

Delinquent

Debtor is \$420 delinquent in plan payments, which represents less than a month of the \$2,100 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In confirming if Debtor has cured the delinquency, at the hearing, the Trustee reported that Debtor is current through January 2025.

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on January 6, 2025. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, the Trustee concurred with Debtor's request for a continuance so the new Plan can get promptly filed.

The hearing Motion to Dismiss is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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 **XXXXXXX**.

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.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 December 20, 2024. By the court's calculation, 33 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is XXXXXXX.

March 5, 2025 Hearing

The court continued the hearing on this Motion to allow Debtor an opportunity to find counsel to help prosecute this case. On February 26, 2025, Debtor filed an Opposition to this Motion, informing the court that Mr. Macaluso is now on the case. Docket 76. Debtor states they will file and set for hearing a Plan on or before the hearing on this Motion.

At the hearing, XXXXXXX

REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Lynette Michelle Lister ("Debtor"), has filed a blank plan (with only a signature, date, and the Debtor's name on the front), and the plan form is also the wrong form, being Official Form 112, and not EDC.003-080. Mot. 1:24-26, Docket 39.
2. Debtor failed to attend the meeting of creditors. *Id.* at 2:2-3.
3. Debtor has not provided photo identification, proof of social security, pay advices, or the last filed federal tax return to the Trustee as required under 11 U.S.C. §521(h). *Id.* at 2:4-6.

4. Debtor has not paid the Court for amending the master address list and has not paid any filing fees but has an order extending only the time to pay the filing fees. *Id.* at 2:7-9.
5. Debtor does not include reasonable living expenses on her budget. *Id.* at 2:10-13.
6. 12 proofs of claim have been filed where Debtor is not acting to move this case forward. *Id.* at 2:14-15.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 41.

DEBTOR'S RESPONSE

Debtor filed a Response on January 7, 2025. Docket 49. Debtor states she has paid an installment filing fee, she has filed a correct Plan, and she has now provided a copy of her drivers license and social security card.

DISCUSSION

Blank Plan

11 U.S.C. § 1325(a)(1) provides for confirmation of a plan if it complies with Chapter 13 provisions and other applicable Code provisions. Here, Debtor initially proposed a plan that did not provide the required information and Plan terms.

Debtor filed an Amended Plan twice on January 14, 2025. Dockets 50, 51. Reviewing the last Amended Plan filed, Dckt. 51, it provides:

- A. Monthly Plan payments of \$516 for 60 months. Plan, ¶¶ 2.01, 2.03.
- B. No payments on the Class 1 Secured Claim for which it is stated there is an \$8,000 arrearage. *Id.*; ¶ 3.07.
- C. No other payments to creditors are provided for in the Plan.

There are seventeen proofs of claim that have been filed in this Case, the one secured claim and sixteen unsecured claims.

Debtor has proposed a plan payment of \$516 but has not proposed any other terms in the Plan, including payments to Classes 1–6 or a dividend amount to Class 7. The Plan does not comply with 11 U.S.C. § 1325(a)(1).

Failure to Appear at 341 Meeting

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Appearance is mandatory. *See* 11 U.S.C. § 343. Attempting to confirm a plan while failing to appear and be questioned

by Trustee and any creditors who appear represents a failure to cooperate. *See* 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

**Failure to Authenticate Identification
Prior to Meeting of Creditors**

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court she did not provide the required identification. That is cause for dismissal.

Debtor is delinquent based on the Amended Plan.

At the hearing, Debtor addressed the court, identifying some special issues that she is having to deal with in prosecuting this Case. The Debtor stated that she will seek out legal assistance, when through a consumer services program, like the Mc George Bankruptcy Clinic, or seeking out counsel to represent her.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on March 5, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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 **XXXXXXX**.

FINAL HEARINGS

21. [24-25000-E-13](#)
[DPC-1](#)

JANE/JOHN BARRETT
Michael Hays

MOTION TO DISMISS CASE
1-15-25 [\[26\]](#)

DEBTORS DISMISSED: 02/18/25

Final Ruling: No appearance at the March 5, 2025 hearing is required.

The case having previously been dismissed, the Motion is denied as moot without prejudice.
Order, Docket 38.

The Motion to Dismiss is denied as moot without prejudice, the case having been dismissed on February 18, 2025. Docket 38.

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 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 Motion is denied as moot without prejudice, the case having been dismissed.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on February 12, 2025. The court computes that 21 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on February 5, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on January 31, 2025. The court computes that 33 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on January 24, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

DEBTOR DISMISSED: 02/18/25

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on February 16, 2025. The court computes that 17 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on February 18, 2025 (Docket 15), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 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 as moot, and no sanctions are ordered.

Item 25 thru 26

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on January 15, 2025. The court computes that 49 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on January 8, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on February 14, 2025. The court computes that 19 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on February 7, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on February 15, 2025. The court computes that 18 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on February 10, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the March 5, 2025 hearing is required.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

Trustee moved to dismiss the case based on a default in plan payments. Docket 46.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on February 19, 2025. Dockets 50, 53. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 52. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, David Cusick (“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.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on February 20, 2025, Docket 43; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Adnan Mahmutovic and Maria Nicole Foley (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 43, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

Final Ruling: No appearance at the March 5, 2025 hearing is required.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient 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, 2025. By the court’s calculation, 36 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

Trustee moved to dismiss the case based on a default in plan payments in failure to provide necessary documents. Docket 26.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on February 19, 2025. Dockets 30, 34. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 32. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, David Cusick (“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.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). 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.

<p>The Motion to Dismiss is granted, and the case is dismissed.</p>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, James Marshall Frank and Christina Lyn Frank ("Debtor"), is delinquent \$5,439.00 in plan payments. Debtor will need to have paid \$10,879.00 to become current by the hearing date. Mot. 1:18-23, Docket 26.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 28.

DISCUSSION

Delinquent

Debtor is \$5,439.00 delinquent in plan payments, which represents multiple months of the \$2,720.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

32. [22-23246](#)-E-13 **TAMANY RESOVICH** **MOTION TO DISMISS CASE**
[DPC-5](#) **Matthew Gilbert** **1-15-25 [136]**

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 141), **the Motion to Dismiss the Bankruptcy Case was denied without prejudice, and the matter is removed from the calendar.**

33. [25-20049](#)-E-13 **THOMAS MCGEE** **ORDER TO SHOW CAUSE - FAILURE**
 Gary Fraley **TO PAY FEES**
 2-11-25 [36]

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on February 13, 2025. The court computes that 20 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to timely file documents.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on February 27, 2025 (Docket 40), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 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 as moot, and no sanctions are ordered.

34. 24-20153-E-7	ROBERT PENDERGAST	MOTION TO DISMISS CASE
DPC-1	Mohammad Mokarram	1-17-25 [25]

CASE CONVERTED: 01/29/25

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p>The Motion to Dismiss is denied without prejudice as moot, the Chapter 13 Case having been converted to one under Chapter 7 when Debtor filed his Notice of Conversion on January 29, 2025. Docket 34.</p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Robert Edward Pendergast, Jr.’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on January 29, 2025, however, converting the case to a proceeding under Chapter 7. Dckt. 32. Debtor may convert a Chapter 13 case to a

Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor's case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on January 29, 2025. *McFadden*, 37 B.R. at 521.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("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 as moot.

35. 19-24860-E-13 DPC-3	GERALD/BARBARA MILLER Steele Lanphier	MOTION TO DISMISS CASE 1-17-25 [109]
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Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). 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 hearing on the Motion to Dismiss is continued to April 16, 2025.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Gerald William Miller and Barbara Miller (“Debtor”), is delinquent \$1,833.63 in plan payments, which is the final amount to complete the Plan. Mot. 1:19-22, Docket 109.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 111.

DEBTOR’S RESPONSE

Debtor filed a Response on February 11, 2025. Docket 115. Debtor states there was a misunderstanding as the final amount due to complete the Plan, and Debtor requests time to cure the delinquency and complete the Plan.

The Chapter 13 Trustee requested a continuance to the April 16 dismissal calendar on February 11, 2025. Docket 113.

DISCUSSION

Delinquent

Debtor is delinquent \$1,833.63 in plan payments, which is the final amount to complete the Plan. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor is in the process of curing the delinquency and the Parties have agreed to a continuance. The hearing on the Motion to Dismiss is continued to April 16, 2025.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 hearing on the Motion to Dismiss is continued to April 16, 2025 at 9:00 a.m.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on January 23, 2025. The court computes that 41 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on January 16, 2025.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

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 Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

DEBTOR DISMISSED: 01/27/25**Final Ruling:** No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on January 15, 2025. The court computes that xx days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on January 27, 2025 (Docket 55), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 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 as moot, and no sanctions are ordered.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 5, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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, David Cusick (“Trustee”), seeks dismissal of the case on the basis that Debtor has not properly signed documents, Debtor failed to appear at the 341 Meeting, Debtor has not filed all tax returns, Debtor’s Schedules contain inaccurate or missing information, and there are concerns about Debtor’s power of attorney filing on his behalf.

However, on February 10, 2025, Debtor filed a Motion to Dismiss this case pursuant to 11 U.S.C. §1307(b). Docket 23. 11 U.S.C. § 1307(b) is a near absolute right of a Debtor to dismiss his case at any time. Therefore, the Motion is granted.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p>The Motion to Dismiss is granted, and the case is dismissed.</p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Paul Stephen Berigtold and Jani Arlene Berigtold (“Debtor”), is delinquent \$1,730.00 in plan payments. Debtor will need to have paid \$2,850.00 to become current by the hearing date. Mot. 1:19-22, Docket 28.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 30.

DISCUSSION

Delinquent

Debtor is \$1,730.00 delinquent in plan payments, which represents multiple months of the \$560.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

40. [24-25484](#)-E-13

KRISTIN VRABLICK
Michael Hays

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
1-8-25 [27]

DEBTOR DISMISSED: 02/18/25

Item 40 thru 41

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on January 10, 2025. The court computes that 54 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on February 18, 2025 (Docket 41), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 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 as moot, and no sanctions are ordered.

DEBTOR DISMISSED: 02/18/25**Final Ruling:** No appearance at the March 5, 2025 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on February 9, 2025. The court computes that xx days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on February 18, 2025 (Docket 41), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 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 as moot, and no sanctions are ordered.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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 denied without prejudice as moot, the Chapter 13 Case having been converted to one under Chapter 7 when Debtor filed his Notice of Conversion on February 28, 2025. Docket 37.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Starla Townsend Knight’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on January February 28, however, converting the case to a proceeding under Chapter 7. Dckt. 32. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor’s case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on February 28, 2025. *McFadden*, 37 B.R. at 521.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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 as moot.

43. [24-22489](#)-E-13
[DPC](#)-1

STACI SCOTT
Seth Hanson

MOTION TO DISMISS CASE
1-17-25 [20]

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 26), **the Motion to Dismiss the Bankruptcy Case was denied without prejudice, and the matter is removed from the calendar.**

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient 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 17, 2025. By the court’s calculation, 47 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p>The Motion to Dismiss is granted, and the case is dismissed.</p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Terence Scott Clark and Kirsten Felita Washington-Clark (“Debtor”), is delinquent \$3,775.76 in plan payments. Debtor will need to have paid \$7,957.68 to become current by the hearing date. Mot. 1:19-22, Docket 56.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 58.

DISCUSSION

Delinquent

Debtor is \$3,775.76 delinquent in plan payments, which represents more than a month of the \$2,090.96 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick (“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.

Final Ruling: No appearance at the March 5, 2025 Hearing is required.

The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on February 27, 2025, Docket 37; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Brian Russell Meredith (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 37, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.