

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

March 20, 2019 at 9:00 a.m.

1.	<u>17-25609</u> -C-13 <u>DPC</u> -2	JARED MEEKS Mikalah Liviakis	MOTION TO DISMISS CASE 2-19-19 <u>[31]</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.

Local Rule 9014-1(f)(1) 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 February 19, 2019. By the court's calculation, 29 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 Debtor's Chapter 13 Plan will complete in 68 months instead of the 60 months proposed because priority claims were \$27,508.20 greater than scheduled. Under the plan \$53,776.00 remains to be paid, and the net payments in the remaining 51 months are \$1,0687.35. Therefore, the plan will need an extra \$1,350.00 to complete timely.

Debtor is in material default under the Plan because the Plan will not be completed within 60 months. Section 5.03 of the Plan makes that failure a breach of the Plan in addition to violating the Bankruptcy Code. Failure to meet the plan term of 60 months puts Debtor in material default of the confirmed Plan. *See* 11 U.S.C. § 1307(c).

At the hearing, xxxxxxxxxxxxxxxx.

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

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

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

The Motion to Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, 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—Hearing Required.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors’ Attorney, and Office of the United States Trustee on January 16, 2019. 28 days’ notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties’ pleadings.

The court’s decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Anthony George Tokuno and Renee A. Tokuno’s (“Debtor”) case on the basis they are delinquent in plan payments in the amount of \$6,562.49, with one payment in the amount of \$4,284.27 due prior to the date of hearing. Debtor has paid \$60,715.00 into the plan to date.

FEBRUARY 20, 2019 HEARING

At the February 20, 2019 hearing, the court continued the matter to allow Debtor time to cure the delinquency. Dckt. 69.

The court issued an Order continuing the hearing and requiring Debtor file a supplemental Opposition on February 27, 2019. Dckt. 70.

DISCUSSION

Debtor is delinquent in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Despite being ordered by the court to file further Opposition, Debtor did not do so. At the hearing, Debtor explained xxxxxxxxxxxxxxxx.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted and the case is dismissed.

3. [18-26130-C-13](#) [DPC-2](#) PAUL/MICHELE STANLEY
Joseph Angelo CONTINUED MOTION TO DISMISS
CASE
12-18-18 [\[20\]](#)

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 Debtors, Debtors' Attorney, and Office of the United States Trustee on December 18, 2018. 14 days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----
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The court's decision is to grant the Motion to Dismiss and dismiss the case.

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

A. Debtors are delinquent in plan payments in the amount of \$3,600.00, with one payment in the amount of \$3,600.00 due prior to the date of hearing. Debtors have paid \$3,600.00 into the plan to date.

B. Debtors have not filed an amended plan since the Trustee's Objection to Confirmation was Sustained on December 4, 2018. Dckt. 18.

JANUARY 9, 2019 HEARING

At the hearing Trustee confirmed that Debtor is current, but an amended plan has not yet been filed. The court continued the hearing to March 20, 2019 to allow filing of a new plan.

The court issued an Order continuing the hearing and requiring a supplemental Opposition be filed by March 6, and Replies (if any) by March 13. Order, Dckt. 26.

DISCUSSION

Debtor has not filed a new plan since the prior hearing. Furthermore, Debtor did not file an Opposition pursuant to the court's Order. Order, Dckt. 26.

At the hearing, **XXXXXXXXXXXXXXXXXX**.

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted and the case is dismissed.

4. [18-25634-C-13](#) **JAY QUILTER**
[DPC-2](#) **Scott Hughes**

MOTION TO DISMISS CASE
2-20-19 [\[49\]](#)

No 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 20, 2019. 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 XXXXXXXXXXXXXX.
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that debtor, Jay Philip Quilter (“Debtor”), is \$3,870.00 delinquent in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 6, 2019. Dckt. 53. Debtor’s counsel testifies that, based on a review of the National Data Center website, Debtor’s caretaker Dawnan Wood-Mitchell has paid \$3,870.00 since the Motion was filed. *Id.*, ¶ 4.

DISCUSSION

At the hearing, XXXXXXXXXXXXXX.

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

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

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

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

5. [16-25337](#)-C-13 **DEWAYNE WILLIAMS** **CONTINUED MOTION TO DISMISS**
[DPC-5](#) **Kyle Schumacher** **CASE**
 12-10-18 [104]

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on December 10, 2018. Twenty-eight days notice is required. That requirement is met.

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

The court’s decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor’s case on the basis Debtor is delinquent in plan payments in the amount of \$7,286.49, with another Plan payment in the amount of \$3,158.83 due prior to the date of the hearing. Debtor has paid \$57,383.77 into the plan to date.

DEBTORS’ RESPONSE:

Debtor filed an Opposition December 21, 2018. Dckt. 108. Debtor responds that he will attempt to become current with plan payments or file an amended plan prior to the hearing. Declaration,

Dckt. 109.

JANUARY 9, 2019 HEARING

At the January 9, 2019 hearing, the court continued the matter to give Debtor an opportunity to either file a new plan or become current with plan payments. Debtor failed to do either.

DISCUSSION:

Debtor is delinquent in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted and the case is dismissed.

No 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, 2019. 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 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 XXXXXXXXXX.</p>
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that the debtor, Betty Jean Dollar ("Debtor"), is \$1,417.87 delinquent in plan payments.

DEBTOR'S RESPONSE

Debtor filed a Response on March 6, 2019. Dckt. 37. Debtor's counsel states Debtor is substantially below median income and was eligible for a Chapter 7, and filed a Chapter 13 to avoid a foreclosure sale.

Debtor's counsel indicates possible unavailability on the hearing date due to knee surgery but requests the case be converted to one under Chapter 7.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and

a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause

11 U.S.C. § 1307(c). The court engages in a “totality of circumstances” test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. *Drummond v. Welsh (In re Welsh)*, 711 F.3d 1120, 1123 (9th Cir. 2013) (citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated “for cause” grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing *In re Leavitt*, 171 F.3d at 1224).

DISCUSSION

Debtor is \$1,4147.87 delinquent in plan payments, which represents multiple months of the \$715.17 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’s counsel argues this case should be converted to one under Chapter 7 because the Debtor is far below median income.

On Debtor’s Schedule I, Debtor lists monthly income from unemployment at \$1,243.00. Dckt. 12. Debtor also receives \$100.00 from his son, totaling \$1,343.00. *Id.* With Debtor’s very modest monthly expenses, the net disposable monthly income listed on Schedule J is \$727.00. *Id.*

On Debtor’s Schedules A/B, Debtor lists total assets valued at \$109,291.00 (including Debtor’s home valued at \$103,385.00). *Id.* Debtor’s home is encumbered by the secured claim of Freedom Mortgage in the amount of \$77,447.14. Schedule D, Dckt. 12. Debtor also claims an exemption of \$25,937.86 in the remaining equity of the property pursuant to California Civil Code of Civil Procedure section 703.140(b)(1).

At the hearing, **xxxxxxxxxxxxxx**.

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

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

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

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

7. [14-29550](#)-C-13 **TRISHA MEJIA DONNELL** **CONTINUED MOTION TO DISMISS**
[DPC-7](#) **Mary Ellen Terranella** **CASE**
1-4-19 [\[145\]](#)

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on January 4, 2019. Twenty-eight days notice is required. That requirement is met.

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

The court's decision is to grant the Motion to Dismiss and dismiss the case.

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis Debtor is delinquent in plan payments in the amount of \$4,361.72, with another Plan payment in the amount of \$2,181.24 due prior to the date of the hearing. Debtor has paid \$86,692.21 into the plan to date.

DEBTORS' RESPONSE:

Debtor's counsel responded that Debtor's delinquency was caused by an ex-spouse's refusal to make support payments. Dckt. 149. Debtor's counsel states that on December 17, 2018 the family court ordered the ex-spouse to take out a loan against his retirement and pay Debtor \$10,000.00 as soon as possible. Debtor's counsel anticipates the payment to be made on or around February 8, 2019 and the funds will be used to cure the delinquency.

FEBRUARY 20, 2019 HEARING

At the February 20, 2019 hearing, the court continued the matter to the March 20, 2019 date

to give the Debtor an opportunity to become current with her payments and receive the spousal support from her ex-spouse.

DISCUSSION:

No supplemental pleadings have been filed since the prior hearing.

At the hearing, **XXXXXXXXXXXXXXXXXX**.

In the absence of evidence that debtor can become current, cause exists to dismiss this case as plan payments have not been made. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted and the case is dismissed.

Tentative Ruling: 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 February 22, 2019. 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. At the hearing -----

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<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, Albert Donald Enochs (“Debtor”) failed to appear at the First Meeting of Creditors held on January 24, 2019. The Meeting has been continued to March 14, 2019.
2. The Debtor is \$100.00 delinquent in plan payments.
3. Debtor has not provided required business documents.

DISCUSSION

Debtor is \$100.00 delinquent in plan payments, which represents one month of the \$100.00

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 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).

Debtor has failed to timely provide Trustee with business documents including:

- A. Questionnaire,
- B. Two years of tax returns,
- C. Six months of profit and loss statements,
- D. Six months of bank account statements, and
- E. Proof of license and insurance or written statement that no such documentation exists.

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Without Debtor submitting all required documents, the court and Trustee are unable to determine if the Plan is feasible, viable, or complies with 11 U.S.C. § 1325. That 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 a minute order substantially in the following form holding that:

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

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

9. [18-23460](#)-C-13 **GREGORY/CHERIE BORGERSON CONTINUED MOTION TO DISMISS**
[DPC-2](#) **D. Randall Ensminger** **CASE**
12-12-18 [23]

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.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on December 12, 2018. 28 days' notice is required. That requirement is met.

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

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

The Chapter 13 Trustee seeks dismissal of Debtors' case on the basis Gregory Roger Borgerson and Cherie Marquez Borgerson ("Debtor") are delinquent in plan payments in the amount of \$1,843.42, with another Plan payment in the amount of \$3,090.00 due prior to the date of the hearing. Debtors have paid \$13,606.58 into the plan to date.

DEBTOR'S RESPONSE:

Debtor's counsel responds that counsel has not been able to contact the Debtors since the filing of Trustee's Motion to Dismiss. Dckt. 51. Debtor's counsel flags for the court that the telephone number for the Debtors appears to be disconnected and counsel has not received a response to the January 16, 2019 letter informing the Debtors of the Trustee's Motion to Dismiss.

JANUARY 9, 2019 HEARING

At the January 9, 2019 hearing, the court continued the hearing on the Motion to allow Debtor to prosecute a Motion filed seeking approval of loan modification.

TRUSTEE'S STATUS UPDATE

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Status Update on March 6, 2019. Dckt. 40. Trustee reports Debtor's Motion for approval of loan modification was granted. Dckt. 39.

However, Trustee notes further Debtor was supposed to make payments of \$1,147.78 monthly starting November 2018, with Debtor missing the December 2018 payment.

Assuming a reduction for the new trial loan modification, Debtor is still delinquent \$1,246.58 under the plan.

DISCUSSION:

Debtor is delinquent \$1,246.58 in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **XXXXXXXXXXXXXXXXXX**.

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

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

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

10. [18-24575-C-13](#) ANTHONY/AMALIA AITKEN MOTION TO DISMISS CASE
[DPC-2](#) Bruce Dwigginns 2-13-19 [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 February 13, 2019. By the court's calculation, 35 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 granted, and the case is dismissed.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that Anthony William Aitken and Amalia Elise Aitken ("Debtor") are \$7,991.00 delinquent.

DEBTOR'S REPLY

Debtor filed a Reply on March 6, 2019. Dckt. 42. Debtor states every effort will be made to become current before the hearing date, and an Amended Plan will be filed by April 1, 2019. Debtor requests additional time to file the Amended Plan.

DISCUSSION

Debtor is \$7,991.00 delinquent in plan payments, which represents multiple months of the \$2,216.00 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 requests additional time to file an Amended Plan. However, in this case the court has already issued an Order Confirming Chapter 13 Plan. Dckt. 37.

At the hearing, xxxxxxxxxxxxxx.

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

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

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

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

11. [17-27779-C-13](#) **REINA MONTES** **MOTION TO DISMISS CASE**
[DPC-4](#) **Peter Macaluso** **2-4-19 [114]**

No 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 4, 2019. By the court’s calculation, 44 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 XXXXXXXXXX.
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that Reina Carolina Montes (“Debtor”) is \$25,018.00 delinquent in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 6, 2019. Dckt. 118. Debtor states that she was to receive a settlement sum in the amount of \$25,000.00 from a lawsuit with Wells Fargo, but is otherwise current with regular Chapter 13 payments. Debtor asks that the due date of the \$25,000.00 be extended 90 days to allow for time for the settlement funds to be disbursed by Wells Fargo to the Debtor.

DISCUSSION

Debtor is \$25,018.00 delinquent in plan payments due to a lump sum of \$25,000.00 due January 2019. Debtor's monthly plan payments have been \$1,700.00. 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, **XXXXXXXXXXXXXX**.

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

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

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

12.	<u>15-21282-C-13</u> <u>DPC-2</u>	RAUL/MARIA NAVARRO Mary Ellen Terranella	CONTINUED MOTION TO DISMISS CASE 1-10-19 [46]
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No 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.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on January 10, 2019. 28 days notice is required. That requirement is met.

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

The Motion to Dismiss is XXXXXXXXXXXXXX.
--

The Chapter 13 Trustee seeks dismissal of Debtors' case on the basis Raul Madrigal Navarro

and Maria Socorro Navarro (“Debtor”) are delinquent in plan payments in the amount of \$1,396.00, with another Plan payment in the amount of \$689.00 due prior to the date of the hearing. Debtor has paid \$23,764.00 into the plan to date.

DEBTORS’ RESPONSE:

Debtors’ counsel responds that counsel has not been able to contact the Debtors since the filing of Trustee’s Motion to Dismiss. Dckt. 51. Debtors’ counsel flags for the court that the telephone number for the Debtors appears to be disconnected and counsel has not received a response to the January 16, 2019 letter informing the Debtors of the Trustee’s Motion to Dismiss.

FEBRUARY 20, 2019 HEARING

At the February 20, 2019 hearing, the court continued the hearing on the Motion to allow Debtor to further address Trustee’s grounds for dismissal.

STATUS REPORT

Debtor filed a Status Report on March 6, 2019. Dckt. 54. Debtor states they have an appointment March 14, 2019 to prepare a modified plan, which they anticipate will be filed before the hearing date.

DISCUSSION:

Debtor is delinquent in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **XXXXXXXXXXXXXXXXXX**.

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

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

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

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 4, 2019. By the court's calculation, 44 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 granted, and the case is dismissed.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that Jonathan Mark Westergaard ("Debtor") is \$2,600.00 delinquent in plan payments.

DEBTOR'S REPLY

Debtor filed a Reply on March 4, 2019. Dckt. 33. Debtor states that they had slow months and a lack of work during the rainy season and fell behind in plan payments. Debtor hopes to be current by the hearing date.

DISCUSSION

Debtor is \$2,600.00 delinquent in plan payments, which represents multiple months of the \$1,300.00 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).

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

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

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

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

14. [18-24686](#)-C-13 **KEVIN MEDLEY** **MOTION TO DISMISS CASE**
 [DPC-2](#) **Peter Macaluso** **2-20-19 [56]**

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 20, 2019. 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 granted, and the case is dismissed.</p>
--

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

1. Kevin Allen Medley (“Debtor”) is \$1,035.00 delinquent in plan payments.
2. Debtor has failed to file an Amended Plan and set it for confirmation since the court sustained the Trustee’s Objection To Confirmation on January 29, 2019.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 6, 2019. Dckt. 60. Debtor’s Opposition states Debtor will file an Amended Plan before the hearing.

Debtor also filed a Supplemental Declaration on March 11, 2019. Dckt. 62.

Debtor states under penalty of perjury the current delinquency was caused by needed car repairs. Debtor states he is meeting with counsel March 11, 2019 to review and sign an Amended Plan.

Debtor requests the court not dismiss the case because Debtor successfully made the IRS reduce its asserted claim from \$12,000.99 to \$700.00.

DISCUSSION

Debtor is \$1,035.00 delinquent in plan payments, which represents multiple months of the \$345.00 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 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 29, 2019. 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).

Unfortunately for Debtor, a promise to pay and file an amended plan is not evidence that resolves the Motion.

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

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

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

The Motion to Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, 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 February 5, 2019. 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 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>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that Richard Alan Fairchild (“Debtor”) is \$2,522.03 delinquent in plan payments.

DEBTOR’S REPLY

Debtor filed a Reply on March 5, 2019. Dckt. 41. Debtor states he fell behind one payment during the holiday season and is currently working overtime to be current. Debtor provides testimony he made a payment of \$2,522.03 to the Trustee on February 19, 2019. Declaration, Dckt. 43.

DISCUSSION

Debtor made a payment of \$2,522.03 on February 19, 2019, but another payment came due before the hearing. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **xxxxxxxxxxxxxx**.

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

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

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

hearing.

The Motion to Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, 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 RULINGS

16. [16-27601-C-13](#) **DEBRA CAMPBELL** **MOTION TO DISMISS CASE**
[DPC-2](#) **Mary Ellen Terranella** **2-4-19 [43]**

Final Ruling: No appearance at the March 20, 2019 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 4, 2019. By the court's calculation, 44 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 the debtor, Debra Campbell ("Debtor"), is \$1,112.00 delinquent in plan payments.

DISCUSSION

Debtor is \$1,112.00 delinquent in plan payments, which represents two months of the \$556.00 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).

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

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

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

hearing.

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

17.	<u>18-25178-C-13</u> <u>DPC-2</u>	FRANK DAVIS Peter Macaluso	MOTION TO DISMISS CASE 2-5-19 <u>[110]</u>
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Final Ruling: No appearance at the March 20, 2019 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 February 5, 2019. By the court’s calculation, 43 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.

<p>The hearing on the Motion to Dismiss is continued to April 24, 2019 at 9:00 a.m.</p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that Frank A. Davis (“Debtor”) is delinquent \$4,650.00 in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 6, 2019, Dckt. 129. Debtor states that he has a pending sale on his real property commonly known as 3908 Washington Ave., Sacramento, California (the “Property”) and it is due to close in the next 45 days.

The court issued an Order authorizing the sale of the Property on February 18, 2019. Dckt. 125. Debtor estimates that there will likely be enough funds from the sale to cure the delinquent amount of \$6,200.00 owed to the Trustee and then continue under the terms of the confirmed plan beginning

April 2019.

Debtor requests a continuance on this matter to allow the sale of Debtor's Property to close, funds from the sale to be paid to the Trustee, for the Post Closing Status Conference to be heard, and, if necessary, file, set and serve a modified Chapter 13 Plan.

DISCUSSION

Debtor has informed the court there is a pending sale, authorized by Order of the court, which will likely give Debtor funds to cure the delinquency. The court shall continue the hearing on the Motion to Dismiss is to April 24, 2019 at 9:00 a.m.

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

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

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

The Motion to Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, 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 hearing on the Motion to Dismiss is continued to April 24, 2019 at 9:00 a.m.

Final Ruling: No appearance at the March 20, 2019 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 February 5, 2019. 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 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 the debtor, Rafael Quiroz and Veronica Valladares-Quiroz (“Debtor”), are \$4,169.29 delinquent in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on March 5, 2019. Dckt. 33. Debtor states that they will file a modified Chapter 13 plan and become current with their plan payments before the hearing date.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on March 15, 2019. Dckts. 36,38. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckt. 40. 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 a minute order substantially in the following form holding that:

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

hearing.

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

19. [18-27631](#)-C-13 **EUGENE NIERI** **MOTION TO DISMISS CASE**
 [DPC-1](#) **Mikalah Liviakis** **2-5-19 [16]**

Final Ruling: No appearance at the March 20, 2019 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 February 5, 2019. By the court’s calculation, 43 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.

<p>The Motion to Dismiss is denied without prejudice.</p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that the debtor, Eugene Tancredi Nieri (“Debtor”), is \$4,567.78 delinquent in plan payments.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on March 6, 2019. Dckt. 23. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckt. 27. 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 a minute order substantially in the following form holding that:

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

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

20. [18-26465](#)-C-13 **DAVID/MARIELENA COOK** **MOTION TO DISMISS CASE**
 [DPC-3](#) **David Ritziner** **2-5-19 [37]**

Final Ruling: No appearance at the March 20, 2019 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, 2019. 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). 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 the debtors, David Cook and Marielena Lee Cook (“Debtor”) are \$2,776.08 delinquent in plan

payments.

DISCUSSION

Debtor is \$2,776.08 delinquent in plan payments, which represents slightly more than one month of the \$2,740.74 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).

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

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

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

The Motion to Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, 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 20, 2019 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 February 5, 2019. By the court’s calculation, 43 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.

<p>The hearing on the Motion to Dismiss is continued to March 26, 2019 at 2:00 p.m.</p>
--

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

1. Janet Gonzalez (“Debtor”) is \$4,834.37 delinquent in plan payments.
2. Debtor has failed to file an Amended Plan and set it for confirmation since the Trustee’s Objection To Confirmation of the prior plan was sustained January 15, 2019.

DEBTOR’S RESPONSE

Debtor filed a Response on February 25, 2019. Dckt. 39. Debtor states she will be completely current with her plan payments by the time of the March hearing. Debtor further states an Amended Plan was filed on February 7, 2019, and was set for a confirmation hearing on March 26, 2019.

TRUSTEE’S REPLY

The Trustee filed a Reply on March 6, 2019. Dckt. 44. The Trustee states that the Debtor is delinquent \$6,702.00 under the terms of the Amended Plan filed February 7, 2019.

FILING OF AMENDED PLAN

Debtor filed an Amended Plan and Motion to Confirm on February 7, 2019. Dckts. 30, 35. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by

Debtor. Dckt. 32, 33. 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.

However, Trustee notes Debtor is substantially delinquent under the new Amended Plan. Based on the foregoing, the court shall continue the hearing on the Motion to Dismiss to be heard alongside the Motion to Confirm Amended Plan March 26, 2019 at 2:00 p.m.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, 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 hearing on the Motion to Dismiss is continued to March 26, 2019 at 2:00 p.m.

Final Ruling: No appearance at the March 20, 2019 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, 2019. 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). 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 the debtor, Deanna Lynn Deschwanden (“Debtor”), is delinquent \$2,774.70 in plan payments. Debtor has not filed an opposition to Trustee’s Motion.

DISCUSSION

Debtor is \$2,774.00 delinquent in plan payments, which represents two months of the \$1,277.47 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).

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

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

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

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

23. [16-20373-C-13](#) **BOATAMO MOSUPYOE** **MOTION TO DISMISS CASE**
 [DPC-7](#) **David Foyil** **2-4-19 [196]**

Final Ruling: No appearance at the March 20, 2019 hearing is required.

<p>The Motion To Dismiss is dismissed without prejudice.</p>

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 205; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Boatamo Mosupyoe (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 205, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

24. [16-23359-C-13](#) [DPC-2](#) JOSE ESPARZA
Gabriel Liberman MOTION TO DISMISS CASE
2-4-19 [\[31\]](#)

Final Ruling: No appearance at the March 20, 2019 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, **the Motion To Dismiss was dismissed without prejudice, and the matter is removed from the calendar.**

25. [17-21827-C-13](#) [DPC-1](#) EDWIN PEREZ
Thomas Amberg MOTION TO DISMISS CASE
2-5-19 [\[22\]](#)

Final Ruling: No appearance at the March 20, 2019 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 28, 2019 Dckt. 29; 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 response filed by the debtor, Edwin Perez (“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 a minute order substantially in the following form holding that:

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

The Motion to Dismiss the Chapter 13 Case filed by the Chapter 13 Trustee, 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, Dckt. 29 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 dismissed without prejudice, and the bankruptcy case shall proceed in this court.

26. [17-25217](#)-C-13 KATINA MILLER MOTION TO DISMISS CASE
[DPC-2](#) Michael Hays 2-19-19 [34]

Final Ruling: No appearance at the March 20, 2019 hearing is required.

<p>The Motion To Dismiss is dismissed without prejudice.</p>

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 13, 2019, Dckt. 40; no prejudice to the responding party appearing by the dismissal of the Motion; 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 the debtor, Katina Miller (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 40, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

27. [17-27598-C-13](#) **RICHARD/LAURA HILLMAN** **MOTION TO DISMISS CASE**
[DPC-2](#) **Michael Hays** **2-5-19 [36]**

Final Ruling: No appearance at the March 20, 2019 hearing is required.

<p>The Motion To Dismiss is dismissed without prejudice.</p>

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 42; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Richard Hillman and Laura Hillman (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 42, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

Final Ruling: No appearance at the March 20, 2019 hearing is required.

<p>The Motion To Dismiss is dismissed without prejudice.</p>

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 56; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Moises Crisanto Campos (“Debtor”); the Ex Parte Motion is granted, Trustee Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 56, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

29. [18-23700-C-13](#) **DANIEL/HASIBA CLAYBERGER** **MOTION TO DISMISS CASE**
[DPC-1](#) **Geral Glazer** **2-11-19 [21]**

Final Ruling: No appearance at the March 20, 2019 hearing is required.

<p>The Motion To Dismiss is dismissed without prejudice.</p>

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 29; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Daneil Clayberger and Hasiba Clayberger (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 29, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

30. [18-24024](#)-C-13 **JEFFREY MACILRAITH** **CONTINUED MOTION TO
RECONVERT
CASE TO CHAPTER 7
12-14-18 [91]**
[DPC-1](#) **Jessica Dorn**

Final Ruling: No appearance at the March 20, 2019 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, **the Motion To Dismiss was dismissed without prejudice, and the matter is removed from the calendar.**

31. [18-25051](#)-C-13 **JUSTIN/CHRISTINA BORGES** **MOTION TO DISMISS CASE
2-5-19 [17]**
[DPC-1](#) **Mikalsh Liviakis**

Final Ruling: No appearance at the March 20, 2019 hearing is required.

The Motion To Dismiss is dismissed without prejudice.
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The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 24; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Justin David Borges and Christina Rene Borges (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 24, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

32. [18-25581](#)-C-13 **DANIELLE DELGADO** **MOTION TO DISMISS CASE**
 [DPC-1](#) **Mary Ellen Terranella** **2-5-19 [24]**

Final Ruling: No appearance at the March 20, 2019 hearing is required.

The Motion To Dismiss is dismissed without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on March 12, 2019, Dckt. 30; no prejudice to the responding party appearing by the dismissal of the Motion; 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 Danielle Delgado (“Debtor”); the Ex Parte Motion is granted, Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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 filed by The Chapter 13 Trustee, David Cusick (“Trustee”), having been presented to the court, 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, Dckt. 30, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion To Dismiss is dismissed without prejudice.

Final Ruling: No appearance at the March 20, 2019 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 23, 2019. The court computes that 25 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: \$70.00 due on February 19, 2019.

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 subjection of the Order to Show Cause has been cured.

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

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

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

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

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-13-19 [44]**

02/21/2019

IT IS ORDERED that the Order To Show Cause is discharged as moot, the case having been dismissed.

34. [19-20447](#)-C-13 **DANIEL SCHWEITZER** **ORDER TO SHOW CAUSE - FAILURE**
 George Burke **TO PAY FEES**
 3-1-19 [19]

Final Ruling: No appearance at the March 20, 2019 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 March 3, 2019. 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 the required fees in this case: \$79.00 due on February 25, 2019.

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 subjection of the Order to Show Cause has been cured.

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

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

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

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

35. 19-20001-C-13 PAUL-MATTHEW FERNANDES ORDER TO SHOW CAUSE - FAILURE
Dale Orthner TO PAY FEES
2-6-19 [16]

Final Ruling: No appearance at the March 20, 2019 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 8, 2019. The court computes that 40 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: \$79.00 due on February 1, 2019.

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 subjection of the Order to Show Cause has been cured.

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

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

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

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

36. 17-23850-C-13 SHARON PHELPS MOTION TO DISMISS CASE
DPC-1 James Brunello 2-4-19 [55]

Final Ruling: No appearance at the March 20, 2019 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, **the Motion To Dismiss was dismissed without prejudice, and the matter is removed from the calendar.**