

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein
Chief Bankruptcy Judge
Sacramento, California

April 1, 2015 at 10:00 A.M.

1. [12-22801](#)-C-13 SUK KIM MOTION TO DISMISS CASE
DPC-2 Anthony Hughes 3-2-15 [[166](#)]

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 March 2, 2015. 28 days' notice is required. This requirement was met.

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

The court's decision is to continue the Motion to Dismiss to May 19, 2015 at 2:00 p.m.

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following Debtor is in material default with respect to the term of a confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtor has paid a total of \$56,409.46, with the last payment received on January 21, 2015. Monthly plan payments are \$1,910. Trustee shows a total of \$66,659.46 due. Therefore, Debtor is delinquent \$10,250 in plan payments. Prior to this hearing, \$1,910 will come due by the date of this hearing, and thus Debtor will need to pay \$12,160 to bring the plan current by the date of the hearing.

DEBTOR'S RESPONSE

Debtor states that he intends to modify his plan and be current under the terms of his modified plan by the hearing date. Debtors' counsel is filing this response in order to afford Debtor time to make the payment without a payment being turned away from Trustee's office.

DISCUSSION

Debtor provides that he intends file a Modified Plan, and be current under that plan by the hearing date. The court notes that on March 27, 2015, Debtor filed a Modified Plan and Motion to Modify Plan. The Motion to Modify Plan is set for hearing on May 19, 2015. The court will continue the instant motion to take place concurrently with the Motion to Modify Plan on May 19, 2015 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 having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is continued to May 19, 2015 at 2:00 p.m.

2. [15-20203](#)-C-13 JAMES/MONICA IVIE
Justin Kuney

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-17-15 [[22](#)]

Also #3

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on February 11, 2015). The court docket reflects that the fees were not paid. The docket further reflects that on March 13, 2015, a second installment payment of \$77.00 became due, which has not been paid. The court issued a second order to show cause on March 18, 2015.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

3. [15-20203](#)-C-13 JAMES/MONICA IVIE
Justin Kuney

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-18-15 [[28](#)]

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on March 13, 2015). The court docket reflects that the fees were not paid. This is the second order to show cause ordered for failure to pay fees.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

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 March 2, 2015. 28 days' notice is required. This requirement was met.

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

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 based on the following Debtor is in material default with respect to the term of a confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtor has paid a total of \$194,304.79, with the last payment received on January 26, 2015. Monthly plan payments are \$4,100.59. Trustee shows a total of \$206,589.01 due. Therefore, Debtor is delinquent \$12,284.22 in plan payments. Prior to this hearing, \$4,100.59 will come due by the date of this hearing, and thus Debtor will need to pay \$16,384.81 to bring the plan current by the date of the hearing.

DEBTOR'S RESPONSE

Debtor provides that they will be current on plan payment by the date of the hearing on April 1, 2015.

DISCUSSION

The Debtor's statement that they will be current without actual evidence that they are current is insufficient to rebut the Trustee's accounting of delinquent payments. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

5. [15-20007](#)-C-13 BARBARA DAVIDSON
Richard Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-11-15 [[31](#)]

Also #6

Final Ruling: No appearance at the September 10, 2014 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on March 6, 2015). The court docket reflects that the Debtor has not paid the fee upon which the order to show cause is based.

The Order to Show Cause is sustained and the case is dismissed. No appearance required.

The fees not having been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 13, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

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 because Debtor is causing unreasonable delay prejudicial to creditors. 11 U.S.C. § 1307(c). Debtor is \$400 delinquent in plan payments to date, and the next scheduled payment of \$400 is due on March 25, 2015. The case was filed on January 2, 2015, and the plan in § 1.01 calls for payments to be received by the Trustee not later than the 25th day of each month. The Debtor has paid \$0.00 into the plan to date.

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

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

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

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

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

Tentative Ruling: The Motion to Dismiss 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 16, 2014. 28 days' notice is required. This requirement has been 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.

PREVIOUSLY

The Court previously continued this Motion to Dismiss to take place after an evidentiary hearing, which was set to determine the fair market value of collateral that Debtor was seeking to value. That evidentiary hearing was resolved by stipulation on March 10, 2015.

SUMMARY OF MOTION

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

1. Debtor has not paid all sums or fees required by the Plan. 11 U.S.C. § 1325(a)(2). Debtor is \$2,000 delinquent in Plan payments to the Trustee to date and the net schedule payment of \$1,450 was due on December 25, 2014. Debtor has paid \$4,350 into the Plan to date.
2. Debtor has no pending Plan. Trustee's Objection to Confirmation was heard and sustained by this Court at a hearing held on August 26, 2014. Creditor Capital One Auto Finance's Objection to Confirmation was also heard and sustained on August 26, 2014. No subsequent amended plan or Motion to Confirm has been filed to date.

Debtor's Reply

On December 23, 2014, Debtor filed an opposition to the Chapter 13 Trustee's Motion to Dismiss, stating:

1. Debtor's Plan depends on a order valuing a second mortgage lien of Debtors residence. Debtor has filed a motion to value said lien and set the motion for hearing on January 13, 2015.
2. On December 17, 2014, Debtor received a letter from the Creditors of the second mortgage, Art Beadle, Zoe Beadle, and Alina Frieda Sargiss, concerning valuation of the subject property.
3. Debtor states that she will file an amended Chapter 13 Plan and motion and set said motions for hearing based on whether a compromise can be met with Creditor.

DISCUSSION

The Court notes that Debtor indeed filed a Motion to Value Collateral on November 21, 2014. On January 13, 2015, the court set the Motion to Value Collateral for evidentiary hearing. On March 10, 2015, parties filed a stipulation resolving the Motion to Value Collateral. The Parties agreed that Debtor had obtained an appraisal indicating that the secured claims of Creditors Art Beadle, Zoe Beadle, and Alina Sargiss were secured, and as a result, Debtor no longer wished to pursue the Motion to Value Collateral. Finally, the stipulation provided that Debtor would amend her chapter 13 plan to accommodate the secured claim of Creditors Art Beadle, Zoe Beadle, and Alina Sargiss.

Despite this representation in the stipulation submitted March 10, 2015, the court notes that Debtor has not submitted an amended chapter 13 plan. Because no plan is pending, and the Trustee's objection is outstanding, the Court will grant the instant motion.

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

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

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

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

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 18, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

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 for unreasonable delay that is prejudicial to creditors based on the following:

1. Debtors are \$4,070 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,655.00 is due on March 25, 2015. Debtor has paid \$895.00 into the plan to date.
2. Trustee's Objection to Confirmation (DPC-1) was heard and sustained by the Court on January 27, 2015. No subsequent amended plan or Motion to Confirm have been filed.

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

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

holding that:

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

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

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

Final Ruling: No appearance at the April 1, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 25, 2015. 28 days' notice is required. This requirement was met.

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

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

The Chapter 13 Trustee seeks dismissal of Debtor's case because on January 13, 2015, Trustee's Objection to Confirmation (DPC-1) was heard and sustained. To date, Debtor has not filed an amended plan or set it for hearing. Trustee asks the court to grant an order dismissing this proceeding unless Debtor files and serves an amended plan and motion to confirm plan no later than March 18, 2015, Debtor is current on plan payments no later than March 18, 2015, and Debtor files a response no later than March 18, 2015 explaining his delay.

The court docket reflects that Debtor has not filed or served an amended plan or motion to confirm plan. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

IT IS ORDERED that the Motion to Dismiss

is granted and the case is dismissed.

Final Ruling: No appearance at the April 1, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 2, 2015. 28 days' notice is required. This requirement was met.

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

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

The Chapter 13 Trustee seeks dismissal of Debtors' case because Debtors are in material default with respect to the term of a confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtors have paid a total of \$49,970 with the last payment received on December 23, 2014. There is a total due of \$53,915, and Debtors are delinquent in \$3,945 in plan payments. Prior to the hearing, another payment of \$1,315 will come due, and as a result Debtors will need to pay \$5,260 to be current as of the date of the hearing.

DEBTORS' S RESPONSE

On March 16, 2015, Debtors responded stating that they intend to be current by March 25, 2015.

DISCUSSION

Debtors state that they intend to be current by March 25, 2015. However, a mere statement of intent is insufficient evidence to counter Trustee's accounting of delinquent plan payments. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

Tentative Ruling: The Motion to Dismiss 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 February 24, 2015. 28 days' notice is required. This requirement was met.

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

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 because of unreasonable delay prejudicial to creditors under 11 U.S.C. § 1307(c) based on the following:

1. Debtors are \$4,079 delinquent in plan payments, with the next scheduled payment of \$4,079 due on February 25, 2015. Debtors have paid \$0.00 into the plan to date.
2. Debtor Larisa Nichols has not provided her proof of her social security number at the first meeting of creditors on January 15, 2015. To date, Trustee has not received verification from the Debtor.

DEBTOR'S RESPONSE

On March 16, 2015, Debtors provided that they intend to be current on plan payments and to provide proof of Debtor Larisa Nichols' social security number prior to their hearing date.

DISCUSSION

Although Debtors represent that they plan to be current and provide

Trustee with necessary and requested information by the hearing date, Debtors have provided no evidence upon which the court may rely to validate these intentions. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

12. [14-31734](#)-C-13 GARY GREER
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-4-15 [[26](#)]

CASE DISMISSED 2/19/15

Final Ruling: No appearance at the April 1, 2015 hearing is required.

The case having previously been dismissed, the order to show cause is discharged as moot.

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

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

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

IT IS ORDERED that the order to show
cause is discharged as moot, the case having
been dismissed.

Final Ruling: No appearance at the April 1, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 24, 2015. 28 days' notice is required. This requirement was met.

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

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

The Chapter 13 Trustee seeks dismissal of Debtor's case because Debtor is causing unreasonable delay prejudicial to creditors under 11 U.S.C. § 1307(c), based on the following:

1. Debtor is \$1,187.92 delinquent in plan payments, and the next scheduled payment of \$384.48 is due on February 25, 2015. Debtor has paid \$350 into the plan to date.
2. Debtor's Motion to Confirm (AF-2) was denied by the Court at the hearing held January 27, 2015. Debtor has not filed an amended plan and set for confirmation.

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

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

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

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

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

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 February 24, 2015. 28 days' notice is required. This requirement was met.

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

The court's decision is to continue the Motion to Dismiss to May 5, 2015 at 2:00 p.m.
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The Chapter 13 Trustee seeks dismissal of Debtor's because Debtor has caused unreasonable delay prejudicial to creditors under 11 U.S.C. § 1307(c). Trustee's Objection to Confirmation (DPC-1) and the Objection to Confirmation filed by First U.S. Community Credit Union were sustained by the court upon hearing on January 13, 2015. Debtor has not filed an amended plan or set it for confirmation. Trustee asks the court to grant an order dismissing unless Debtor files and serves an amended plan and motion to confirm by March 18, 2015, as well as a response explaining the delay.

DEBTOR'S RESPONSE

Debtor filed a response to Trustee's motion on March 18, 2015. Debtor attributes the delay to filing a second motion to value the secured claim of First U.S. Community Credit, as Debtor needed to obtain two separate appraisals and locate necessary documents. Debtor states that he has remained current on monthly payments, and believes that this new motion to value will be successful based on the debt owed to the first mortgage holder (Central Mortgage), and the value of the residential property.

DISCUSSION

The court notes that Debtor has filed a motion to confirm plan, set for hearing on May 2, 2015 at 2:00 p.m., as well as a second Motion to Value

Collateral of First U.S. Community Credit, set for hearing on April 21, 2015 at 2:00 p.m.. Thus, the court will enter an order continuing the instant motion to dismiss to May 5, 2015 at 2:00 p.m. to take place concurrently with the Debtor's Motion to Confirm.

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

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

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

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

IT IS ORDERED that the Motion to Dismiss is continued to May 5, 2015 at 2:00 p.m.

15. [14-31338](#)-C-13 ROMMEL BALINGIT
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-23-15 [[40](#)]

CASE DISMISSED 3/3/15

Final Ruling: No appearance at the April 1, 2015 hearing is required.

The case having previously been dismissed, the order to show cause is
discharged as moot.

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

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

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

IT IS ORDERED that the order to show
cause is discharged as moot, the case having
been dismissed.

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 February 18, 2015. 28 days' notice is required. This requirement was met.

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

The court's decision is to deny the Motion to Dismiss and the case is not dismissed.

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

1. Debtor is \$3,120 delinquent in plan payments to date, and the next scheduled payment of \$1,560 is due on February 25, 2015. Debtor has paid \$0.00 into the plan to date.
2. Debtor filed an amended plan on February 11, 2015. Debtor has not set the plan for a confirmation hearing.
3. Debtor did not appear at the meeting of creditors held on January 8, 2015. The meeting was continued to February 12, 2015. Debtor did not appear at the continued meeting of creditors on February 12, 2015. The meeting was continued to March 12, 2015.
4. Debtor has not provided Trustee with the answers to certain questions about the Debtor's business, including recent profit and loss, a list of employees, and other questions set out in a Business Case Questionnaire mailed to Debtor), and other documentation (copies of licenses and any insurance policies).

DEBTOR'S RESPONSE

On March 18, 2015, Debtor responded to the instant motion. Debtor provides:

1. Debtor recently made two plan payments by cashier's check totaling \$3,120, and will make an additional two plan payments next week prior to March 25, 2015. Debtor states that he will be current on all plan obligations before the hearing.
2. Debtor did not attend previously scheduled 341 hearings because of Debtor's counsel's conflicting schedule, and the unavailability of Debtor's counsel related to a prescheduled, prepaid out-of-country vacation.
3. Debtor will file a second amended plan next week by March 24, 2015. Debtor will also file and serve a motion to confirm the plan, and schedule the motion for hearing.
4. Debtor has provided Trustee with answers to certain questions about Debtor's business, including recent profit and loss statements, a list of employees, and other questions set out in the Business Case Questionnaire, as well as the other documentation requested.

DISCUSSION

The court is satisfied that Debtor has adequately addressed Trustee's concerns. The docket reflects that Debtor has filed an amended plan, as stated in his response. Cause no longer exists to dismiss this case. The motion is denied and the case is not 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 denied and the case is not dismissed.

17. [13-30255](#)-C-13 GERMAINE BASTAIN
DPC-1 Peter Macaluso

MOTION TO DISMISS CASE
2-26-15 [[17](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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 February 26, 2015. 28 days' notice is required. This requirement was met.

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

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 because Debtor is in material default pursuant to § 5.03 of the plan, which provides that the plan is "not to exceed 60 months[.]" According to Trustee's calculations, the plan will complete in 67 months as opposed to 60 months. This exceeds the maximum amount of time allowed under 11 U.S.C. § 1322(d).

Chapter 13 Trustee further explains that Trustee processed the Notice of Mortgage Payment Change filed December 2, 2014, which increased the Monthly Contract Installment Amount from \$2,211.02 per the plan confirmed October 29, 2013 to \$2,388.82. Debtor has not increased the plan payment per section 2.08(b)(4)(I) of the confirmed plan. Trustee provided notification of this increase to Debtor and Debtor's counsel on January 9, 2015. Debtor has completed 17 months of the plan, according to Trustee's calculations based on the remaining amount to be paid through the plan, approximately 50 months remain in the plan.

DEBTOR'S RESPONSE

Debtor provides that he intends to modify his plan and account for the increased on-going mortgage payment and the overextension to his plan.

DISCUSSION

The docket reflects that Debtor has not filed a Motion to Modify or Modified Plan. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

19. [15-20058](#)-C-13 JOHN MCCALL
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-10-15 [[25](#)]

Thru #22

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on February 5, 2015). The court docket reflects that Debtor has not paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is sustained. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The fees having not been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

20. [15-20058](#)-C-13 JOHN MCCALL
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-12-15 [[32](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on March 9, 2015). The court docket reflects that Debtor has not paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is sustained. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The fees having not been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

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 (*pro se*), and Office of the United States Trustee on March 2, 2015. 28 days' notice is required. This 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 Pro Se Debtor filed no opposition, however the Court will permit opposition to be presented at the hearing. 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 based on the following:

1. Debtor did not appear at the First Meeting of Creditor on February 26, 2015. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325. The meeting has been continued to April 23, 2015.
2. Debtor has not provided a tax transcript or a copy of the Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required, or a statement that no such documentation exists. 11 U.S.C. § 521(e)(2)(A); FRBP 402(b)(3). This is required 7 days before the date set for the first meeting of creditors. 11 U.S.C. § 521(d)(2)(A)(I).
3. Debtor has not provided 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).
4. Debtor has not noticed all interested parties of the chapter 13 plan or set a confirmation hearing. Notice of Commencement of Case was

served without the plan on February 2, 2015, and Debtor filed the plan the next day on February 3, 2015.

5. Debtor is \$50 delinquent in plan payment to Trustee, and the next scheduled payment of \$50.00 is due March 25, 2015. Debtor has paid \$0 into the plan to date.
6. Debtor has not paid required filing fees required under 11 U.S.C. § 1326(a)(2).
7. Debtor has not used the correct form Chapter 13 Plan (EDC 3-080). Debtor has also not used the correct form Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (form B22C1).

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

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

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

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

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

22. [14-30962](#)-C-13 JASINDA MUHAMMAD
Richard Kwun

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-11-15 [[28](#)]

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$56.00 due on March 6, 2015). The court docket reflects that Debtor has not paid the fees upon which the Order to Show Cause was based.

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

The fees having not been paid, the Order to Show Cause is sustained.

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

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

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

IT IS ORDERED that the Order to Show
Cause is sustained, no sanctions are ordered,
and the case is dismissed.

23. [15-20871](#)-C-13 SHARMAGNE WINBUSH
Marc Carpenter

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-12-15 [[18](#)]

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on March 9, 2015). The court docket reflects that on March 25, 2015, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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

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

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

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

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 February 18, 2015. 28 days' notice is required. This requirement was met.

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

The court's decision is to grant the Motion to Dismiss and the case is dismissed.
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The Chapter 13 Trustee seeks dismissal of Debtors' case based on the following:

1. Debtors are \$950 delinquent in plan payments to Trustee, and the next scheduled payment of \$950 is due on February 25, 2015. Debtors have paid \$0 into the plan to date.
2. Debtors are not entitled to Chapter 13 relief under 11 U.S.C. § 109(e). Debtors are over the unsecured debt limit of \$383,175 and not entitled to Chapter 13 relief. Debtor listed unsecured priority debts on Schedule E totaling \$377,789.67, and Debtors list a \$20,000 Internal Revenue Service Tax Lien on Schedule D. However, Debtors did not indicate the date the claim was incurred and the IRS claims does not indicate a secured portion. Therefore, it appears that the total amount of unsecured debt is \$397,789.67.

DEBTORS' RESPONSE

On March 18, 2015, Debtors filed a response to Trustee's Motion to Dismiss, provided the following:

1. Debtors have caught up on their plan payments of \$950.

2. Debtors are determining the exact amount they owe to taxing authorities, including the IRS and Franchise Tax Board. They filed an objection to the claim filed by the IRS on March 5, 2015. The IRS amended its claim on March 18, 2015, and Debtors are still reviewing the amended claim. The Franchise Tax Board has not filed a claim.

DISCUSSION

The court notes that on March 10, 2015, the court sustained Trustee's Objection to Confirmation of Plan. Debtors represent in their motion that they have remitted a \$950 payment to the Trustee. However, Debtors have provided no evidence upon which the court may rely by way of declaration or photocopy of payment check in order to substantiate this claim. Moreover, Debtors have not resolved Trustee's second basis for dismissal: that under 11 U.S.C. § 109(e), Debtors are over the unsecured debt limit of \$383,175, and are therefore not entitled to chapter 13 relief.

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

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

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

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

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

Final Ruling: No appearance at the April 1, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on February 18, 2015. 28 days' notice is required. This requirement was met.

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

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

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

1. Debtors timely paid the two \$500 monthly payments per the original plan (Dkt. 13), and have timely commenced paying a single \$2,000 monthly payment per the amended plan (Dkt. 34). However, Debtors are delinquent under the amended plan because they did not consider that the first two payments made by Debtors were only \$500 each. Debtors are \$3,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,000 is due on February 25, 2015. Debtors have paid \$3,000 into the plan to date.
2. Debtors cannot confirm the amended plan unless they mail and file a motion to confirm to all parties, as required under LBR 9015-1(d)(1). Debtors have not set a confirmation hearing and the current plan is deficient. Additionally, Trustee has stated that he will object to the confirmation of the amended plan unless specific provision set forth in the Motion to Dismiss are specifically addressed.

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

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

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

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

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

26. [14-30880](#)-C-13 DEANDRA JACKSON
Anthony Hughes

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-6-15 [[46](#)]

CASE DISMISSED 2/20/15

Final Ruling: No appearance at the April 1, 2015 hearing is required.

The case having previously been dismissed, the order to show cause is
discharged as moot.

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

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

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

IT IS ORDERED that the order to show
cause is discharged as moot, the case having
been dismissed.

27. [15-20380](#)-C-13 MATTHEW/ERIN O'BRIEN
Scott Shumaker

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-24-15 [[24](#)]

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtors' failure to pay the required fees in this case (\$79.00 due on February 19, 2015). The court docket reflects that on February 25, 2015, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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

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

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

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

Final Ruling: No appearance at the April 1, 2015 hearing is required.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on February 18, 2015. 28 days' notice is required. This requirement was met.

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

The Motion to Dismiss is grant and the case is dismissed.

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

1. Debtors appear to not be able to afford plan payments required under 11 U.S.C. § 1326(a)(6). Debtors are \$384 delinquent in plan payments to Trustee to date and the next scheduled payment of \$384 is due on February 25, 2015. Debtors have paid \$0 into the plan to date.
2. Debtors have not provided tax transcripts or Federal Income Tax Return with attachments to Trustee to show the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1)

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

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

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

The Motion to Dismiss the Chapter 13 case

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

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

29. [14-32390](#)-C-13 JOSE/LORENA CHAVEZ
Thomas Gillis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-5-15 [[45](#)]

Final Ruling: No appearance at the April 1, 2015 hearing is required.

Final Ruling: The court issued an order to show cause based on Debtors' failure to pay the required fees in this case (\$77.00 due on March 2, 2015). The court docket reflects that on March 13, 2015, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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

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

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

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

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 18, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

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 because Debtor's Motion to Confirm Plan was heard and denied by this Court on January 27, 2015. No subsequent amended plan or Motion to Confirm has been filed to date.

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

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

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

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

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

31. [14-29892](#)-C-13 EDUARDO JIMINEZ
DPC-2 Pro Se

CONTINUED MOTION TO DISMISS
CASE
11-10-14 [[22](#)]

CASE DISMISSED 2/20/15

Final Ruling: No appearance at the April 1, 2015 hearing is required.

The case having previously been dismissed, the Motion is denied as moot.

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

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

The 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, the case having been dismissed.

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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

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

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

Tentative Ruling: The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

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

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 18, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----
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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 because Trustee's Objection to Confirmation (DPC-1) was heard and sustained by this Court on January 27, 2015. Debtor has not filed a subsequent amended plan or Motion to Confirm to date.

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

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

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

The Motion to Dismiss the Chapter 13 case

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

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