

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 22, 2020 at 9:00 a.m.

1.	<u>20-20344</u> -C-13 <u>DPC-1</u>	RAYMOND/MARLEN GALLO Stephan Brown	MOTION TO DISMISS CASE 3-11-20 <u>[63]</u>
----	---	---------------------------------------	---

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. If the court’s tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

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 March 11, 2020. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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.

The Motion to Dismiss is granted, and the case is converted to one under Chapter 7.

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

1. the debtor, Raymond Henry Gallo and Marlen Angela Gallo (“Debtor”), never filed a motion setting a plan confirmation hearing.

2. Schedule I reports \$15,597.00 in property or business income, but Debtor has not clarified whether that amount is gross or net.
3. Debtor has not provided various business documents required by 11 U.S.C. § 521.
4. The filed Chapter 13 plan has not been signed.
5. Debtor did not clearly schedule a value for Debtor's ownership interest in 2 PizzaRev franchises. Additionally, Debtor admitted at the Meeting of Creditors the franchises were purchased with a \$400,000.00 loan from Debtor's father in November 2018. Debtor's father has a UCC filing statement, and Debtor listed the debt on Schedule D, but it is unclear at present whether the interest was perfected.

DISCUSSION

The evidence shows that the Debtor is not prosecuting this case. Debtor's first proposed Chapter 13 Plan was filed a month into this case, and roughly two months later no confirmation hearing has been set. Also, that Plan is defective on its face because it was not signed by Debtor or Debtor's counsel.

The Trustee has also identified key information as to Debtor's business income, assets, and debts necessary for the Trustee to determine whether the Plan meets the requirements of the Bankruptcy Code. Debtor has not provided that information.

Debtor did not respond to or oppose the Motion.

Based on the foregoing, cause exists to grant the Motion.

Dismissal or Conversion

When the Trustee files a Motion To Dismiss pursuant to 11 U.S.C. § 1307, the court must choose between dismissal or conversion based on "whichever is in the best interests of creditors and the estate." 11 U.S.C. § 1307(c).

Here, the Debtor has not presented a complete picture of Debtor's assets and liabilities. For example, Debtor lists a 100% ownership interest in "2 PizzaRev franchises" with value "unknown."

Despite the Debtor's uncertainty, a potential guidepost for that value is the "secured" loan Debtor used to purchase the interest—which now amounts to \$400,000.00 and was used to purchase 3 of the franchises.

Additionally, while Debtor lists the loan as secured, the Trustee notes that the claim (which is held by Debtor's father) might not have been perfected. It appears to be in the best interest of other creditors who are not Debtor's family have a trustee (acting as a fiduciary) in control of the Estate.

Based on the foregoing, the court finds that conversion to Chapter 7 is in the best interest of

creditors.

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 converted to one under Chapter 7.

FINAL RULINGS

2. [20-20287](#)-C-13 **LORI ANDERSON**
 Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
3-23-20 [\[32\]](#)

THRU #3

Final Ruling: No appearance at the April 22, 2020 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (pro se) and Chapter 13 Trustee as stated on the Certificate of Service on March 25, 2020. The court computes that 28 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: \$77.00 due on March 17, 2020.

The hearing on the Order to Show Cause is continued to 9:00 a.m. on May 27, 2020.

Continuance of April 22, 2020 Hearing

In light of the time Debtor has been in this case, the time this case has been pending, the issues relating to the Motion to Dismiss, and the impact of the COVID-19 restrictions on the ability to do business, the hearing is continued.

REVIEW OF MOTION

The court's docket reflects that the default in payment that is the subsection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

However, the court notes that Debtor has cured the default in the prior installment that was due and not timely paid. May 9, 2020 Installment Payment Docket Entry.

The court continues the hearing to allow Debtor additional time to cure the default. 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 hearing on the Order to Show Cause is continued to 9:00 a.m. on May 27, 2020, to afford Debtor a final opportunity to be current on all installments.

Final Ruling: No appearance at the April 22, 2020, hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (pro se) and Chapter 13 Trustee as stated on the Certificate of Service on February 23, 2020. The court computes that 59 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 18, 2020.

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 subsection 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.

Final Ruling: No appearance at the April 22, 2020, hearing is required.

Local Rule 9014-1(f)(1) Motion—Hearing Not 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 January 3, 2020. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that no plan has been filed after the court denied confirmation of the pending plan.

Trustee filed a Status Report noting that counsel of record, Thomas Gillis, has been suspended. Trustee notes Debtor paid \$12,600 to date.

MARCH HEARING

At the March 4, 2020, hearing, the court granted a continuance to allow Debtor to file an Amended Plan.

DEBTOR’S SUPPLEMENTAL RESPONSE

Debtor filed a Response on April 8, 2020, noting that an Amended Plan has been filed. Dckt. 56.

DISCUSSION

Debtor filed an Amended Plan and Motion to Confirm on April 7, 2020. Dckt. 51, 54. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Dckt. 53. 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.

Final Ruling: No appearance at the April 22, 2020, hearing is required.

Local Rule 9014-1(f)(1) Motion—Hearing Not 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 5, 2020. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

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

1. the debtor, Ignacio Gonzalez Lopez (“Debtor”), is \$6,510 delinquent in plan payments.
2. Debtor has not filed a new plan since the pending plan was denied confirmation.

Trustee filed a Status Update on February 26, 2020. Dckt. 109. Trustee reports Debtor’s counsel of record was suspended, that \$21,250 has been paid thus far, and that Debtor’s house is at risk of foreclosure.

MARCH HEARING

At the March 4, 2020, hearing, the court granted a continuance to allow Debtor to file an Amended Plan. Civil Minutes, Dckt. 111.

DEBTOR’S SUPPLEMENTAL RESPONSE

Debtor filed a Response on April 8, 2020, noting that an Amended Plan has been filed. Dckt. 121.

DISCUSSION

Debtor filed an Amended Plan and Motion to Confirm on April 8, 2020. Dckt. 116, 119. The

court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Dckt. 118. 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.

Final Ruling: No appearance at the April 22, 2020 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 (pro se) and Office of the United States Trustee on March 16, 2020. By the court's calculation, 37 days' notice was provided. 28 days' notice is required.

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

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

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

1. the debtor, Carthel Dennis Boring ("Debtor"), is \$747.00 delinquent in plan payments.
2. Debtor has not served her Chapter 13 Plan on anyone, and no confirmation hearing has been set.
3. Debtor has not provided copies of 60 days' pay advices or a copy of her recent tax return as required by 11 U.S.C. § 521.

DISCUSSION

From the evidence provided, it is clear Debtor is not prosecuting her case. Debtor is delinquent in plan payments, has not set her plan for confirmation, and has not provided all documents required by 11 U.S.C. § 521. Each of those constitutes unreasonable delay that is prejudicial to creditors.

11 U.S.C. § 1307(c)(1).

Debtor has not filed any response or opposition to 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.

7. [20-20034](#)-C-13 STACY TUCKER
Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
3-9-20 [\[28\]](#)

DEBTOR DISMISSED: 3/13/2020

Final Ruling: No appearance at the April 22, 2020 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 22, 2020, 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 22, 2020. The court computes that 31 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 March 16, 2020.

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 subsection 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.

9. [19-26548](#)-C-13 CHRISTOPHER KELSO
Harry Roth

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
2-25-20 [\[54\]](#)

DEBTOR DISMISSED: 3/13/2020

Final Ruling: No appearance at the April 22, 2020, 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 22, 2020, 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 26, 2020. The court computes that 56 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: \$57.00 due on February 19, 2020.

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

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

The court shall issue 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.

DEBTOR DISMISSED: 3/12/2020

Final Ruling: No appearance at the April 22, 2020, 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 22, 2020, 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 April 2, 2020. The court computes that 20 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: \$77.00 due on March 26, 2020.

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

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

The court shall issue 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.

Final Ruling: No appearance at the April 22, 2020, 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 22, 2020. The court computes that 60 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: \$1.00 due on February 18, 2020.

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 subsection 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.

THRU #15

Final Ruling: No appearance at the April 22, 2020, 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 28, 2020. 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: \$76.00 due on March 23, 2020.

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 subsection 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.

Final Ruling: No appearance at the April 22, 2020, 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 27, 2020. The court computes that 55 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: \$77.00 due on February 20, 2020.

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 subsection 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.

Final Ruling: No appearance at the April 22, 2020 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, 2020. 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 Hearing on the Motion to Dismiss is continued to 9:00 a.m. on July 1, 2020.</p>

Continuance of April 22, 2020 Hearing

In light of the time Debtor has been in this case, the time this case has been pending, the issues relating to the Motion to Dismiss, and the impact of the COVID-19 restrictions on the ability to do business, the hearing is continued.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that the debtor, Thomas Anthony Ward (“Debtor”), is \$11,927.78 delinquent in plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on February 19, 2020. Dckt. 91. Debtor states a modified plan will be filed prior to the hearing date.

MARCH 4, 2020 HEARING

At the March 4, 2020 hearing the court granted a continuance to allow Debtor additional time to cure the payment delinquency. Dckt. 93.

DISCUSSION

Debtor is \$11,927.78 delinquent in plan payments, which represents multiple months of the \$3,969.26 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).

Despite the additional time provided, Debtor was not able to cure the delinquency.

Continuance of April 22, 2020 Hearing

In light of the time Debtor has been in this case, the time this case has been pending, the issues relating to the Motion to Dismiss, and the impact of the COVID-19 restrictions on the ability to do business, the hearing is continued.

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 9:00 a.m. on July 1, 2020.

Final Ruling: No appearance at the April 22, 2020, 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 April 17, 2020, Dckt. 250; 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 Gary Duener; 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. 250, 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.

April 22, 2020 at 9:00 a.m.
Page 25 of 25