

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

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

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: April 27, 2021

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

Eastern District of California

April 27, 2021 at 1:00 p.m.

- WITHDRAWN BY M.P.

The notice is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to conditionally grant the motion to dismiss case and **continue the matter to May 4, 2021, at 1:00 p.m.**

Payments are not current under the plan. As of April 12, 2021, plan payments are delinquent in the sum of \$4,456.19. The last payment was received on July 13, 2020. 11 U.S.C. § 1307(c)(6). The delinquency stems from the plan confirmed on April 17, 2017, which calls for a 0% dividend to the general unsecured creditors. The amount needed to complete this plan is \$4,456.19.

Debtor Wendell Akens has also abandoned his case and not complied with his duty under Fed. R. Bankr. P. 4002(a)(5) to file a statement of a change of address. As the Debtor's attorney stated in connection with an *ex parte* request for a continuance of the hearing on the motion to dismiss which this court denied in an order issued on April 21, 2021, the Debtor is unreachable by telephone, email, U.S. mail, and social media.

Cause exists to dismiss this case. The motion is conditionally granted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, April 30, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on May 4, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on May 4, 2021, at 1:00 p.m. Debtor and his attorney are cautioned that a frivolous or baseless opposition or response - or one filed for an improper purpose such as to harass, increase costs, or delay - may result in substantial sanctions under Federal Rule of Bankruptcy Procedure 9011 and/or the court's inherent authority.

The court will issue an order.

3. [20-90755](#)-B-13 DAVID TOUCHSTONE
Brian S. Haddix

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-29-21 [[35](#)]

DEBTOR DISMISSED: 4/1/21

Final Ruling

The case was dismissed on April 1, 2021. Therefore, the order to show cause is discharged as moot.

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

The court will issue an order.

4. [20-90680](#)-B-13 ALVARO/JAZMIN HERNANDEZ ORDER TO SHOW CAUSE - FAILURE
T. Mark O'Toole TO PAY FEES
3-17-21 [[45](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtors' failure to pay \$166.00 due February 12, 2021. The court's docket reflects that the default was cured on April 6, 2021. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to **continue the matter to May 4, 2021, at 1:00 p.m.**

Payments are not current under the plan. As of April 12, 2021, plan payments are delinquent in the sum of \$1,556.94. The last payment was received on January 4, 2021. 11 U.S.C. § 1307(c)(6). The delinquency stems from the plan confirmed on September 16, 2016, which calls for a 0% dividend to the general unsecured creditors. The amount needed to complete this plan is \$1,556.94.

Debtor filed a response stating that she will be current on payments on or before the hearing on this matter. Debtor states that she sends payments to the Chapter 13 Trustee by money order and through the postal service. Since Debtor resides out of state and there may be postal delays, Debtor requests a short continuance on this matter so that the payment can be received and processed by the Trustee.

This matter shall be continued to May 4, 2021, at 1:00 p.m. The Trustee shall file a response by 5:00 p.m. on Monday, May 3, 2021 as to whether the Debtor has cured the delinquency. If the Debtor is current, the motion will be denied without prejudice. If the Debtor is not current on plan payments, the case will be dismissed.

The court will issue an order.

6. [20-90458](#)-B-13 DANIEL/DONNA BOUCHER CONTINUED OBJECTION TO CLAIM OF
[RDG](#)-1 Jessica A. Dorn VALLEY FIRST CREDIT UNION,
CLAIM NUMBER 17
3-18-21 [[85](#)]

Final Ruling

This matter was continued from April 20, 2021, to allow any opposition or response to be filed by 5:00 p.m. on Friday, April 23, 2021. No opposition or response was filed. Therefore, the court's conditional ruling at docket 88 shall become the court's final ruling. The continued hearing is vacated.

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

The court will issue an order.