

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

**Honorable Ronald H. Sargis**  
Bankruptcy Judge  
Sacramento, California

**May 10, 2023 at 9:00 a.m.**

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1. <a href="#"><u>20-24800-E-13</u></a>	<b>JOE MATTHEWS</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#"><u>DPC-2</u></a>	<b>Mo Mokarram</b>	<b>3-10-23 <a href="#"><u>[37]</u></a></b>

**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.

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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 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

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

1. the debtor, Joe Orlando Matthews (“Debtor”), is delinquent in Plan payments.

## Delinquent

Debtor is \$1,394.00 delinquent in plan payments, which represents multiple months of the \$350.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

2.	<a href="#"><u>20-21508-E-13</u></a>	<b>LORI MICKENS</b>	<b>CONTINUED MOTION TO DISMISS</b>
	<a href="#"><u>DPC-5</u></a>	<b>Pro Se</b>	<b>CASE</b>
			<b>2-23-23 [65]</b>

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on February 23, 2023. By the court’s calculation, 41 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).

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

1. the debtor, Lori Denise Mickens (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on March 22, 2023. Dckt. 69. Debtor states they have requested a withdrawal from their Profit Sharing Plan to bring the Plan current. Debtor does not know, however, if the delinquency will be cured prior to the hearing date. Debtor requests a short continuance.

## **TRUSTEE’S REPLY**

Trustee filed a reply on March 27, 2023. Dckt. 70. Trustee is not opposed to a continuance, however, notes that the Debtor has not listed a Profit Sharing Plan on Schedule A/B, nor have they explained why they became delinquent and why they will refrain from being delinquent in the future.

At the hearing, Debtor appeared, advised the court over confusion that existed with respect to the Profit Sharing Plan, and that the Schedules will promptly be amended.

## **DISCUSSION**

### **Delinquent**

Debtor is \$6,322.00 delinquent in plan payments, which represents multiple months of the \$850.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

Debtor reported that she has the funds and is ready to may payment to the Trustee. Debtor also explained the events that caused the default and why such was not likely to occur in the future.

The Trustee concurred in the request for a continuance to allow Debtor to continue in the cure and prosecution of the Chapter 13 Plan in this Bankruptcy Case.

### **Trustee’s Status Report**

Trustee filed a status report on May 2, 2023. Dckt. 76. Trustee states Debtor is still delinquent \$8,872.00.

Debtor filed a Response on May 5, 2023. Dckt. 78. Debtor explains that while she was able to get the withdrawal from the Pension and Profit Sharing Plan, the money was used to pay past due rent and as a partial payment for repairs on her 2012 Chevy Equinox. Debtor has also learned from an attorney that her Plan may be modified.

Debtor further states that she is now working two full-time jobs and has the funds to make the increased plan payments.

At the continued hearing, **XXXXXXX**

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

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

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

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

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

3. [23-20022-E-13](#)      **ROSE ROBINSON**      **MOTION TO DISMISS CASE**  
[DPC-2](#)      **Arete Kostopoulos**      **4-21-23 [27]**

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 21, 2023. By the court’s calculation, 19 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing -----.

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

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

1. the debtor, Rose Anna Robinson (“Debtor”), is delinquent in Plan payments.
2. There is no current Plan pending.

### **Delinquent**

Debtor is \$9,100.00 delinquent in plan payments, which represents multiple months of the \$4,550.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Prior Plan Denied, No New Plan**

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on March 20, 2023. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

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

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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 March 1, 2023. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is xxxxxxx**

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

1. the debtor, James Jacob Burke ("Debtor"), is delinquent in Plan payments.

## DEBTOR'S RESPONSE

Debtor filed a Response on March 21, 2023. Dckt. 55. Debtor states the delinquency will be cured prior to April 15, 2023. Debtor requests a conditional order that their case not be dismissed as long as the payment is received by then.

## DISCUSSION

### Delinquent

Debtor is \$5,244.00 delinquent in plan payments, which represents multiple months of the \$1,769.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Though Debtor requests a conditional order, the court continued the hearing.

### May 10, 2023 Hearing

At the hearing, XXXXXXXXXX

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is **xxxxxxx**

5. [22-21528-E-13](#)      **MICHAEL CARTER/TORRIE**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **GIDGET CONN**      **3-29-23 [217]**  
Pro Se

**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.

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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 29, 2023. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

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

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

1. the debtor, Michael Anthony Carter and Torrie Gidget Conn (“Debtor”), has no Plan pending.

**Prior Plan Denied, No New Plan**

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on September 29, 2022. A review of the docket shows that Debtor has

not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

6. <a href="#"><u>20-23431-E-13</u></a>	<b>KAREN BLAKLEY</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#"><u>DPC-2</u></a>	<b>Matthew DeCaminada</b>	<b>3-10-23 [66]</b>

**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.

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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 March 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

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

1. the debtor, Karen Patrice Blakley (“Debtor”), is delinquent in Plan payments.



## **DEBTOR'S OPPOSITION**

Debtor filed an Opposition on April 26, 2023. Dckt. 70. Debtor states they will be filing a modified plan prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,088.00 delinquent in plan payments, which represents multiple months of the \$275.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file a modified plan is not evidence that resolves the Motion.

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

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

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

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

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

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

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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 23, 2023. By the court's calculation, 41 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is XXXXXXXXXX**

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

1. the debtor, Kimberly Marie Gordon ("Debtor"), is delinquent in Plan payments.

## **DEBTOR'S OPPOSITION**

Debtor filed an Opposition on March 21, 2023. Dckt. 78. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$3,700.00 delinquent in plan payments, which represents multiple months of the \$740.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Counsel for Debtor reported that the full payment was made on March 31, 2023, with the payment being in process.

The Trustee concurred with the request for a continuance.

## Debtor's Supplemental Declaration

Debtor filed a declaration on April 20, 2023. Dckt. 84. Debtor states they are current on Plan payments and understand they must make payments timely, automatically setting up TFS payments.

### May 10, 2023 Hearing

At the hearing, XXXXXXXXXXXX

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is XXXXXXXXXXXX

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on January 12, 2023. By the court's calculation, 41 days' notice was provided. 28 days' notice is required.

The Motion to Convert 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). The defaults of the non-responding parties and other parties in interest are entered.

<p><b>The Motion to Convert the Chapter 13 Bankruptcy Case to a Case under Chapter 7 is <span style="color: red;">XXXXXXXXXX</span></b></p>
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This Motion to Convert the Chapter 13 bankruptcy case of Grant Douglas Haney, III ("Debtor") has been filed by David P. Cusick ("Movant"), the Chapter 13 Trustee. Movant asserts that the case should be dismissed or converted based on the following grounds:

- A. The Debtor is delinquent in Plan Payments.
- B. The Debtor does not have a Plan pending.
- C. Conversion, rather than dismissal, is in the best interest of the Creditors and the Estate. The non-exempt equity in the amount of \$105,824.00 will be realized upon liquidation of the real property located at 823 W Suter Island Cross Road, Courtland, CA 95615, valued at \$650,000.00, as seen in the Debtor's Schedule A/B.

**DEBTOR'S RESPONSE**

Debtor filed Response on February 8, 2023. Dckt. 38. Debtor states that the case should not be converted to Chapter 7, the case should not be dismissed, and any other relief the Court deems just and proper.

Further, Debtor indicates that a motion to confirm will be filed prior to the hearing date.

As of the court's February 19, 2023 review of the Docket, no Amended Plan has been filed, and no motion to confirm has been filed.

## **APPLICABLE LAW**

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

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause . . . .

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

## **DISCUSSION**

### **Delinquent**

Debtor is \$12,794.00 delinquent in plan payments, which represents two months of the \$6,397.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **No Plan Pending**

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on December 15, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file a new plan is not evidence that resolves this Motion.

The Plan and Motion to Confirm have been filed, and after review the Trustee concurred with the request for a continuance of the hearing on this Motion.

**May 10, 2023 Hearing**

At the hearing, **XXXXXXXXXX**

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

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

The Motion to Convert the Chapter 13 case filed by David P. Cusick (“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 Convert the Chapter 13 Bankruptcy Case to a Case under Chapter 7 is **XXXXXXXXXXXX**

9. <a href="#"><u>21-23539</u></a> -E-13 <a href="#"><u>DPC</u></a> -2	<b>DEREK WOLF</b> <b>Peter Macaluso</b>	<b>CONTINUED MOTION TO DISMISS</b> <b>CASE</b> <b>2-22-23 [146]</b>
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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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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 22, 2023. By the court’s calculation, 42 days’ notice was provided. 28 days’ notice is required.

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

<b>The Motion to Dismiss is <b>XXXXXXXXXX</b></b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. the debtor, Derek L Wolf (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S OPPOSITION**

Debtor filed an Opposition on March 21, 2023. Dckt. 158. Debtor states they will file and serve an Amended Plan and requests a thirty day continuance.

## **DISCUSSION**

### **Delinquent**

Debtor is \$13,345.14 delinquent in plan payments, which represents multiple months of the \$2,258.07 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).

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

At the hearing, counsel for the Debtor explained the confusion over what is owed and the conflicting information provided by the Creditor with the claim secured by Debtor’s residence. Counsel for Debtor also discussed the health issues the Debtor and Debtor’s dependant daughter were dealing with. The court knows and takes into account these health issues.

The court is concerned that the Debtor believes that a bankruptcy case is prosecuted as the Debtor determines proper, and not according to the Bankruptcy Code and the orders of the court. In part this relates to Debtor dictating that the current monthly payment to the Creditor with the claim secured by the residence is only \$900 and not the \$1,200 stated in the latest Notice of Mortgage Payment Change (which doubled the monthly escrow amount).

Debtor’s counsel seemed to be unaware of this Notice of Mortgage Payment Change and the increase in the escrow payment, and argued unrelated points several times.

The court expressly addressed with counsel for the Debtor that the Debtor, and counsel for the Debtor, had to deal with the Bankruptcy Code as written, not as the Debtor wants it to be written. Further, it is for the court to make rulings on the law, not for the Debtor to dictate to the court what the law is and what the court will order.

The Trustee concurred in the request for a continuance.

### **May 10, 2023 Hearing**

At the hearing, **XXXXXXXXXX**

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is **xxxxxxx**

10. <a href="#">22-21246-E-13</a> <a href="#">DPC-2</a>	<b>AERON WALLACE</b> <b>Mary Ellen Terranella</b>	<b>MOTION TO DISMISS CASE</b> <b>3-10-23 [41]</b>
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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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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 March 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. the debtor, Aeron Lynnell Wallace (“Debtor”), is delinquent in Plan payments.

#### **DEBTOR’S OPPOSITION**

Debtor filed an Opposition on April 26, 2023. Dckt. 45. Debtor states the delinquency will be cured prior to the hearing date.

#### **DISCUSSION**



## **Delinquent**

Debtor is \$3,760.00 delinquent in plan payments, which represents multiple months of the \$1,840.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on January 18, 2023. By the court's calculation, 35 days' notice was provided. 28 days' notice is required.

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

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

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

1. the debtor, Errol Quock and Irene Chi-Wia Wong ("Debtor"), has no Plan Pending.
2. Trustee recommends dismissal based on the \$320,131.00 of non-exempt equity.

## **DEBTOR'S OPPOSITION**

Debtor filed an Opposition on February 8, 2023. Dckt. 65. Debtor states a Modified Plan will be filed and requests the Motion to Dismiss be continued six weeks out.

## **DISCUSSION**

### **No Pending Plan**

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on September 29, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file a new plan is not evidence that resolves this Motion.

The Plan was filed on February 22, 2023, and the Motion to Confirm will be filed by the February 27, 2023. The Trustee concurred with Debtor's request for a continuance.

### **Trustee's Status Report**

Trustee filed a status report on May 2, 2023. Dckt. 73. Trustee indicates an Amended Plan has been filed, however, no motion to confirm has been filed nor has the Plan been served.

### **FILING OF AMENDED PLAN NO MOTION TO CONFIRM**

Debtor filed another Amended Plan on April 10, 2023. Dckt. 72. However, Debtor has not filed a Motion to Confirm the Amended Plan nor has Debtor served the Plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 28, 2023. By the court's calculation, 43 days' notice was provided. 28 days' notice is required.

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

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

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

1. the debtor, Mark Haynes ("Debtor"), is delinquent in Plan payments.

## **DEBTOR'S RESPONSE**

Debtor filed a Response on April 20, 2023. Dckt. 145. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$7,636.00 delinquent in plan payments, which represents multiple months of the \$1,909.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

13. [18-20567](#)-E-13  
[DPC](#)-2

JOYCE BILYEU  
Lucas Garcia

**CONTINUED MOTION TO DISMISS  
CASE  
7-27-22 [57]**

**The Motion to Dismiss is ~~XXXXXXXXXX~~**

The Chapter 13 Trustee, David Cusick (“Trustee”), filed this Motion on July 27, 2022 requesting that the court seeks dismissal of the case on the basis that:

1. the debtor, Joyce Ann Bilyeu (“Debtor”), is delinquent in Plan payments.

Debtor was determined to be \$2,799.00 delinquent in plan payments, which represents multiple months of the \$700.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, the court dismissed the case. Order, Dckt. 62.

#### **VACATING DISMISSAL AND RESETTING HEARING ON MOTION TO DISMISS**

On November 9, 2022, this court entered an order vacating the dismissal. Dckt. 83. The court’s detailed findings in vacating the dismissal order and the recitation of the Debtor’s “mistakes” is set forth in the Civil Minutes from the hearing on the Motion to Dismiss. Dckt. 82.

#### **DECEMBER 13, 2022 RESET HEARING ON MOTION TO DISMISS**

On December 6, 2022, the Trustee provided the court with a Supplemental Pleading (titled Status Report), Dckt. 86, asserting the following:

- A. Debtor's Plan payments are currently delinquent \$4,899.00, and no Plan payment has been made since September 1, 2022.
- B. The delinquency includes the \$3,500.00 that Debtor's counsel was ordered to disburse from his Trust Account to the Chapter 13 Trustee.
- C. The Debtor is now in month 58 of a 60 month Plan. While 57 payments totaling \$41,241.00 are required under the Plan, Debtor has made payments totaling only \$36,342.00.
- D. Debtor has taken no action to prosecute this case since the court vacated the dismissal.

Based on the Debtor's further defaults, the Trustee renews the request that this case be dismissed.

As was clear in the court addressing the Motion to Vacate, the monetary defaults were caused by the Debtor incorrectly terminating the Plan payments. From the Trustee's report, Debtor (though presumably having the excess funds by not having made the Plan payments) is not prosecuting this case.

Though Debtor has offered no opposition, the Trustee requested a continuance. The Trustee reports that the Debtor and Debtor's counsel have not yet complied with this court's prior order to disburse the \$3,500.00 that Debtor's counsel held in his trust account for the plan payments be immediately disbursed to the Trustee so that the monies could be disbursed through the Plan to creditors.

The court continues this hearing to afford the Trustee to consider whether further motions will be required in the administration of this case.

### **January 17, 2023 Status Report**

Trustee filed a Status Report on January 17, 2023. Dckt. 92. Trustee states Debtor is still delinquent \$1,399.00. Trustee requests the Motion is granted.

### **January 24, 2023 Hearing**

At the hearing, counsel for the Trustee reported that Debtor is still delinquent several payments, however, Debtor's counsel has sent over the money he was holding and Debtor has made one partial monthly payment. The Trustee also noted that this is the 59<sup>th</sup> month of the Plan and requested that the hearing be continued to March 21, 2023.

Counsel for the Debtor concurred with the request for a continuance.

### **March 10, 2023 Status Report**

Trustee filed a Status Report on March 10, 2023. Dckt. 99. Trustee states Debtor remains \$1,399.00 delinquent in Plan payments. Therefore, Trustee still requests the case be dismissed.

## March 21, 2023 Hearing

At the hearing, counsel for the Trustee requested that the hearing be continued. Counsel for Debtor did not appear, and counsel for the Trustee posited that there may have been a calendaring error or an unexpected event that precluded Debtor's counsel from being at the hearing.

The court continues the hearing as requested by Trustee's counsel.

## May 10, 2023 Hearing

At the hearing, **XXXXXXXXXX**

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is **XXXXXXX**

14. <a href="#"><u>19-22077</u></a> -E-13	<b>DARIN DOWD</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#"><u>DPC</u></a> -3	Mary Ellen Terranella	3-8-23 <a href="#"><u>[77]</u></a>

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 8, 2023. By the court's calculation, 63 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).

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

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

1. the debtor, Darin Wayne Dowd (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S OPPOSITION**

Debtor filed an Opposition on April 26, 2023. Dckt. 82. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$2,672.00 delinquent in plan payments, which represents multiple months of the \$668.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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



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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, persons who have filed a Request for Notice, and Office of the United States Trustee on December 28, 2022. By the court's calculation, 56 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).

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span></b>
--

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

1. the debtor, Manuel Curiel and Ruth E. Curiel ("Debtor"), does not have a Plan Filed.
2. Debtor is Delinquent in Plan Payments.
3. Trustee recommends dismissal because this case was previously converted from a Chapter 7 to Chapter 13. Debtor has \$18,000.00 in non-exempt equity.

#### DEBTOR'S RESPONSE

Debtor filed a Response on February 8, 2023. Dckt. 40. Debtor states that Debtor will file an Amended Chapter Plan and a Motion to Confirm Their Chapter 13 Plan on or before the hearing date.

#### DISCUSSION

**No Plan**

Debtor did not file a Plan . A review of the docket shows that Debtor has not yet filed a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Possible Delinquency**

Debtor indicated to Trustee that they would be able to pay \$2,187.00 per month, starting August 25, 2022. Debtor has yet to commence payments. Therefore, even if Debtor were to have a pending plan, Debtor would be \$8,748.00 delinquent in plan payments, which represents multiple months of the \$2,187.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file a plan is not evidence that resolves this Motion.

At the hearing counsel for the Debtor reported that the Plan and Motion to Confirmed have been filed and set for hearing. The Trustee concurred with the request for a continuance to allow the Debtor to diligently prosecute confirmation of the proposed Plan.

### **Plan Denied Confirmation**

On April 17, 2023, the court denied confirmation of Debtor's Chapter 13 Plan. Order, Dckt. 58. Therefore, there is currently no Plan pending. It is unclear if Debtor is still delinquent.

### **May 10, 2023 Hearing**

At the hearing, **XXXXXXXXXX**

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is **XXXXXXXX**

# FINAL RULINGS

16. [21-24305-E-13](#)  
[DPC-2](#)

MICHELLE PARKS  
Julius Cherry

MOTION TO DISMISS CASE  
3-10-23 [\[60\]](#)

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

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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 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Joe Orlando Matthews (“Debtor”), is \$1,394.00 delinquent in Plan payments.

## **Delinquent**

Debtor is \$2,198.99 delinquent in plan payments, which represents multiple months of the \$550.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

17. [21-23907](#)-E-13      **MORGAN/FREDERICA REYES**      **MOTION TO DISMISS CASE**  
[DPC-2](#)      **Jasmin Nguyen**      **3-10-23 [66]**

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.  
-----

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

18. [19-20999](#)-E-13      **CRAIG/JADE UHRMACHER**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **Michele Poteracke**      **3-27-23 [34]**

**Final Ruling:** No appearance at the May 10, 2023 Hearing is required.  
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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 March 28, 2023. By the court’s calculation, 43 days’ notice was provided. 28 days’ notice is required.

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

<b>The hearing on the Motion to Dismiss is continued to 2:00 p.m. on May 16, 2023.</b>
--

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

1. the debtor, Craig Uhrmacher and Jade Uhrmacher (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on April 21, 2023. Dckt. 46. Debtor states changes in circumstances has caused them to set for hearing a Motion for Hardship Discharge, to be heard on May 16, 2023.

## **DISCUSSION**

### **Delinquent**

Debtor is \$2,017.74 delinquent in plan payments, which, if paid, would complete the Plan. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The court continues this matter to be heard in conjunction with the Motion for Hardship Discharge, on May 16, 2023 at 2:00 p.m.

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

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

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

**IT IS ORDERED** that the hearing on the Motion to Dismiss is continued to **2:00 p.m. on May 16, 2023.**

**Final Ruling: No appearance at the May 10, 2023 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 March 6, 2023. By the court’s calculation, 30 days’ notice was provided. 28 days’ notice is required.

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

**The Motion to Dismiss this Chapter 13 Case is continued to 2:00 p.m. on May 16, 2023, to be heard in conjunction with the Debtor’s Motion for Entry of a Hardship Discharge.**

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

1. the debtor, Richard Lee Crabtree (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on March 21, 2023. Dckt. 85. Debtor admits to being delinquent, however, states they will be requesting a hardship discharge for medical reasons.

Upon the court’s review of the file, no motion for entry of a hardship discharge has been filed. At the hearing, counsel for Debtor reported he is waiting for his client’s declaration to file with the Motion for Entry of Hardship Discharge.

## **DISCUSSION**

### **Delinquent**

Debtor is \$10,052.00 delinquent in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor's counsel appeared, addressed to the court and the Chapter 13 Trustee that the Motion for a Hardship Discharge was prepared, but that he was waiting on the return of a declaration from his client. The return of the declaration was delayed due to the Debtor's health issues.

The Trustee concurred in the request for a continuance.

### **Debtor's Attorney's Declaration**

Debtor's Attorney filed a declaration on April 21, 2023. Dckt. 96. Debtor's Attorney states due to medical reasons, Debtor is no longer able to make Plan payments. Debtor's Attorney has filed a Motion for Hardship Discharge set for calendar May 16, 2023 at 2:00 p.m. Dckt. 92.

The court continues this matter to be heard in conjunction with the Motion for Hardship Discharge, on May 16, 2023 at 2:00 p.m.

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

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

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

**IT IS ORDERED** that the hearing on the Motion to Dismiss is continued to **2:00 p.m. on May 16, 2023.**

**Final Ruling: No appearance at the May 10, 2023 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 24, 2023. By the court’s calculation, 40 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><b>The Motion to Dismiss is denied without prejudice.</b></p>
--

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

1. the debtor, Andrew Caragan and Rina Caragan (“Debtor”), is delinquent in Plan payments.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on March 21, 2023. Dckt. 39. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$2,757.02 delinquent in plan payments, which represents multiple months of the \$553.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, counsel for the Trustee reported that Debtor’s are delinquent. Debtor’s counsel reported that the TFS payment was initiated on March 31, 2023. The court continues the hearing to allow the TFS payment to clear.

### **Trustee’s Status Report**



Trustee filed a status report on May 3, 2023. Dckt. 45. Trustee states Debtor is now current in plan payments and requests the court deny the motion to dismiss.

The Motion to Dismiss is denied without prejudice.

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is denied without prejudice, and the bankruptcy case shall proceed in this court.

21. [23-20720-E-13](#)

**PATRICIA REYNA**  
**Thomas Amberg**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-11-23 [\[16\]](#)**

**Final Ruling:** No appearance at the May 10, 2023 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 12 and 13, 2023. The court computes that 27 and 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: \$79.00 due on April 6, 2023.

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

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

The court shall issue a 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.

22. [21-20022-E-13](#)  
[DPC-3](#)

**STEPHANIE POWERS**  
**Peter Macaluso**

**CONTINUED MOTION TO DISMISS**  
**CASE**  
**2-21-23 [51]**

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on February 24, 2023. By the court’s calculation, 40 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.

Debtor’s counsel appeared at the prior hearing, advising the court and the Trustee that the cure payment was in process.

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

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

1. the debtor, Stephanie Ann Powers (“Debtor”), is delinquent in Plan payments.

## **DISCUSSION**

## **Delinquent**

Debtor is \$1,205.00 delinquent in plan payments, which represents multiple months of the \$225.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1)

At the hearing, counsel for Debtor reports that Debtor made a TFS payment of \$1,680.00 on April 3, 2023, and requests a continuance. The Trustee concurred with the request for a continuance.

## **Debtor's Declaration**

Debtor filed a declaration on April 25, 2023. Dckt. 60. Debtor states they are current on Plan payments.

## **Trustee's Withdrawal**

Trustee, having filed an *Ex Parte* Motion to Dismiss the pending Motion on May 2, 2023, Dckt. 62; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition presented at the prior hearing and Debtor's Declaration; the Ex Parte Motion is granted, the Chapter 13 Trustee's Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

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

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

**Final Ruling:** No appearance at the May 10, 2023 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 March 10, 2023. 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.

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

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

1. the debtor, Thomas Edwin Matlock Knoernschild (“Debtor”), is delinquent in Plan payments.

#### **FILING OF MODIFIED PLAN**

Debtor filed a Modified Plan and Motion to Confirm on April 25, 2023. Dckts. 107, 103. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. *Id.*; Dckt. 105. 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.

The court notes, the Declaration states Debtor is informed and believes that the Modified Plan complies with applicable law. Declaration, Dckt. 105 ¶ 6. Non-expert witness testimony must be based on the personal knowledge of the witness. FED. R. EVID. 602. As a debtor is not an attorney, a debtor should not be providing legal conclusions to the court.

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

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

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

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

**IT IS ORDERED** that the Motion to Dismiss is denied without prejudice.

24. [19-26243-E-13](#)      **RICHARD/ANGELA PARRISH**      **MOTION TO DISMISS CASE**  
[DPC-3](#)      **Peter Macaluso**      **3-8-23 [126]**

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on March 18, 2023. By the court’s calculation, 63 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Richard Craig Parrish and Angela Dale Parrish (“Debtor”), is delinquent in Plan payments.

## **DISCUSSION**

### **Delinquent**

Debtor is \$7,002.28 delinquent in plan payments, which represents multiple months of the \$3,443.46 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on March 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

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

1. the debtor, Terry Lee Thompson and Melissa Kay Mast (“Debtor”) is delinquent in Plan payments.

**Delinquent**

Debtor is \$7,184.11 delinquent in plan payments, which represents multiple months of the \$1,450.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

26. [20-23955](#)-E-13  
[DPC-1](#)

SHAWN/DEANNA KENNEDY  
Paul Bains

MOTION TO DISMISS CASE  
3-10-23 [\[27\]](#)

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.  
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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 10, 2023. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

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

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

1. the debtor, Shawn Dwayne Kennedy and Deanna Renee Kennedy (“Debtor”), is delinquent in Plan payments.

## DISCUSSION



## Delinquent

Debtor is \$6,171.60 delinquent in plan payments, which represents over one month of the \$4,464.30 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

27. <a href="#">21-21056-E-13</a>	<b>CARLOS MIRANDA</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#">DPC-1</a>	<b>Candace Brooks</b>	<b>3-10-23 <a href="#">[21]</a></b>

**WITHDRAWN BY M.P.**

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

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

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

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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 28, 2023. By the court’s calculation, 43 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Loren Ross Godfrey (“Debtor”), is delinquent in Plan payments.

**Delinquent**

Debtor is \$34,451.38 delinquent in plan payments, which represents multiple months of the \$3,862.46 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

29. [21-23958-E-13](#)  
[DPC-1](#)

**ISIDRO FLORES**  
**Peter Macaluso**

**CONTINUED MOTION TO DISMISS**  
**CASE**  
**2-23-23 [51]**

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

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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, persons who have filed a Request for Notice and Office of the United States Trustee on February 23, 2023. By the court’s calculation, 41 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.

Debtor’s counsel appeared at the prior hearing with an oral opposition.

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

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

1. the debtor, Isidro Rodrigo Floress (“Debtor”), is delinquent on plan payments.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,960.00 delinquent in plan payments, which represents multiple months of the \$280.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor counsel’s appeared at the hearing, reporting that a \$2,520 cashier’s check was mailed to the Trustee on April 3, 2023. The Trustee concurred with the request for a continuance.

### **Debtor’s Supplemental Declaration**

Debtor filed a supplemental declaration on April 20, 2023. Dckt. 58. Debtor indicates they cured their delinquency.

### **Trustee’s Withdrawal of Motion**

Trustee, having filed an Ex Parte Motion to Dismiss the pending Motion on May 2, 2023, Dckt. 60; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the oral opposition and Declaration of Debtor; the *Ex Parte* Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

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

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

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on March 28, 2023. By the court’s calculation, 43 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Tasha Nicole-Alegria Chavez (“Debtor”), is delinquent in Plan payments.

## DISCUSSION

### Delinquent

Debtor is \$11,858.35 delinquent in plan payments, which represents multiple months of the \$2,919.43 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).T

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

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

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

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

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

31. [23-20667](#)-E-13

**MOLLIE BADGLEY**  
**Thomas Amberg**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**4-6-23 [17]**

**Final Ruling:** No appearance at the May 10, 2023 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 7 and 8, 2023. The court computes that 32 and 33 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$79.00 due on April 3, 2023.

**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 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.

32. [23-20775-E-13](#)

**RENEE LANE**  
**Bonnie Baker**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**4-18-23 [\[51\]](#)**

**Final Ruling:** No appearance at the May 10, 2023 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 19 and 20, 2023. The court computes that 20 and 21 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79.00 due on April 13, 2023.

<p><b>The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.</b></p>
---

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

The court shall issue a 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 May 10, 2023 hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 11, 2023. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Lorraine Cohen (“Debtor”), is delinquent in Plan payments.
2. Debtor refused to appear on camera at the Meeting of Creditors and failed to provide legal documents to verify their identity or Social Security Number.
3. Debtor has failed to file tax returns and provide pay advices.
4. Debtor has no plan pending.

## DISCUSSION

### Delinquent

Debtor is \$459.18 delinquent in plan payments, which represents less than one month of the \$3,138.06 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).



### **Failure to Provide Identification**

Debtor appeared at the First Meeting of Creditors but refused to be on camera and failed to provide any legal documents to verify their Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to File Tax Returns**

Debtor admitted at the Meeting of Creditors that they have not filed federal income tax returns for the past four years. Filing of the returns are required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is a ground to dismiss the case. 11 U.S.C. § 1307(e).

### **Failure to Provide Pay Advices**

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

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

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

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

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

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

DEBTOR DISMISSED: 4/4/23

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.  
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The case having previously been dismissed, the Motion is dismissed 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 Convert 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 dismissed as moot, the case having been dismissed.

**Final Ruling:** No appearance at the May 10, 2023 hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on March 8, 2023. By the court’s calculation, 63 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><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

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

1. the debtor, Nicholas Alexander Bailey (“Debtor”), is delinquent in Plan payments.

## DISCUSSION

### Delinquent

Debtor is \$4,430.00 delinquent in plan payments, which represents multiple months of the \$940.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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