

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

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

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: May 25, 2021

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

May 25, 2021 at 1:00 p.m.

1. [21-90002](#)-B-13 ROGER MANSOUR MOTION TO DISMISS CASE
[RDG](#)-2 David C. Johnston 5-7-21 [[33](#)]

Final Ruling

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

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

The Chapter 13 Trustee moves to dismiss case on grounds that there is no pending plan or motion to confirm plan. The Trustee's objection to confirmation was heard on April 6, 2021, and the court sustained the objection and denied confirmation of the plan. The Debtor has failed to file, set, and serve an amended plan. This is unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, May 28, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

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

If an opposition or response is timely filed and served, the court will hear the motion on June 1, 2021, at 1:00 p.m.

The court will issue an order.

May 25, 2021 at 1:00 p.m.

2. [21-90014](#)-B-13 JESUS/MARTHA MUNOZ
[RDG](#)-2 Brian S. Haddix

MOTION TO DISMISS CASE
5-7-21 [[28](#)]

Final Ruling

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

The court's decision is to deny the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss case pursuant to 11 U.S.C. § 1307(c) on grounds that there is no pending plan or motion to confirm plan. Debtors filed an amended plan on May 19, 2021, and the confirmation hearing is set for July 13, 2021. Therefore, the Debtors have not caused unreasonable delay that is prejudicial to creditors.

Cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

Final Ruling

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

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

The plan will take approximately 6,647 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4). The over-extension is caused by the unsecured claim of the Internal Revenue Service, claim 201, filed on May 31, 2019, in the amount of \$664,285.32. The Debtor has completed 24 months of their 36-month plan.

The Trustee filed the Notice of Filed Claims on July 15, 2020, which includes allowed claims that will prevent Debtor's plan from being completed timely. Debtor failed to object to the claim or modify her plan as required by Local Bankr. R. 3007-1(d)(3) and (5).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, May 28, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

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

If an opposition or response is timely filed and served, the court will hear the motion on June 1, 2021, at 1:00 p.m.

The court will issue an order.