

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

**May 27, 2015 at 10:00 a.m.**

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1.	<a href="#">15-21906</a> -B-13	DARNELLA JONES	ORDER TO SHOW CAUSE - FAILURE
		Pro Se	TO PAY FEES
			4-15-15 [ <a href="#">20</a> ]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 14, 2015. The court computes that 42 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on April 10, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$157.00 on April 22, 2015.

**May 27, 2015 at 10:00 a.m.**

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2. [15-21314](#)-B-13 NICOLE GRANDY  
JPJ-1 Nekesha L. Batty

MOTION TO DISMISS CASE  
4-22-15 [[26](#)]

WITHDRAWN BY M.P.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Chapter 13 Trustee having filed a withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

**Tentative Ruling:** The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

First, the confirmed plan will take a total of 78 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 18 months longer than the proposed commitment period of 60 months. The Debtor has stated that she and her counsel are reviewing her current financial situation to determine if a modification is feasible and can be completed within 60 months. The court's docket reflects that no modified plan has been filed as of May 26, 2015.

Second, the Debtor has neither timely filed objections to claims nor timely filed a modified plan. The failure of the Debtor to timely file objections to claims or timely file a modified plan constitutes an unreasonable delay by the Debtor that is prejudicial to creditors. This is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

4. [15-21317](#)-B-13 EDUARDO MORALES  
Michael Benavides

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-27-15 [[30](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 27, 2015. The court computes that 30 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on April 21, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$160.00 on April 28, 2015.

5. [14-30018](#)-B-13 EMMANUEL/JENNIFER  
JPJ-2 GACHUPIN  
Peter G. Macaluso

MOTION TO DISMISS CASE  
4-22-15 [[28](#)]

**Tentative Ruling:** The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

Although the Debtors have filed a modified plan on May 19, 2015, which may resolve one of the Chapter 13 Trustee's reasons for dismissal, the Debtors are nonetheless delinquent to the Trustee in the amount of \$300.00, which represent approximately 2 plan payments. Before this motion will be heard, 2 additional plan payments in the amount of \$150.00 (total amount of \$300.00) will also be due. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

6. [14-30622](#)-B-13 PATRICK SALIMI  
JPJ-2 Peter G. Macaluso

MOTION TO DISMISS CASE  
4-22-15 [[73](#)]

**Tentative Ruling:** The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

Although the Debtor has filed a modified plan on May 19, 2015, which may resolve two of the Chapter 13 Trustee's reasons for dismissal, the Debtors are nonetheless delinquent to the Trustee in the amount of \$1,700.00, which represent approximately 0.9 plan payment. Before this motion will be heard, 2 additional plan payments in the amount of \$1,800.00 (total amount of \$3,600.00) will also be due. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on David M. Brady, Trustee, and other such other parties in interest as stated on the Certificate of Service on May 6, 2015. The court computes that 21 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause and impose no sanctions.

The Order to Show Cause was issued due to attorney David M. Brady's misrepresentation to this court that he was admitted to practice in the Eastern District of California and for filing papers in this court when he was ineligible to do so. On May 15, 2015, Mr. Brady filed his response and explained that he honestly believed that he was admitted to practice before the United States Bankruptcy Court for the Eastern District of California. Mr. Brady was brought to this belief by the Law Office of Dennis K. Cowan.

According to the Brady Declaration, Mr. Brady states that during the course of his practice from approximately after graduating from law school in 1976 through 2007, he had practiced in state court and never in federal court. However, Mr. Brady states that when he passed the bar in 1976, he was presented with a certificate that allowed him to practice in the Ninth Circuit. In 2007, Mr. Brady began working at the Law Office of Dennis K. Cowan and he was not permitted to sign any petitions or motions because he was not admitted to practice before the Eastern District of California. However, sometime in 2008, Dennis Cowan told Mr. Brady that he would submit paperwork to the bankruptcy court to have Mr. Brady admitted. Mr. Brady stated that he signed a document applying for admission and was thereafter told that he could now sign and file petitions on his own. Mr. Brady took this to mean that he had been admitted to practice before the Eastern District of California.

Additionally, according to the Cowan Declaration, Mr. Cowan states that if he told Mr. Brady that he was admitted to practice, then Mr. Cowan feels confident that he would have prepared the paperwork, forwarded it to the clerk's office, and paid the admission fee. Based on the sequence of events where Mr. Brady did not sign motions and later could sign documents and make special appearances, Mr. Cowan states that he believes he would have told Mr. Brady that he was admitted.

On May 11, 2015, Mr. Brady provided the admission form and paid the fee to practice before the Eastern District of California. The court's review of the United States District Court of the Eastern District of California's Attorney Admissions Search confirms that Mr. Brady is admitted as of May 11, 2015.

Mr. Brady, having shown cause as to why the misrepresentation was made and for filing papers in this court when he was ineligible to do so, the Order to Show Cause is discharged with no sanctions ordered.

8. [14-32125](#)-B-13 RICK VENTURA  
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-20-15 [[43](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 20, 2015. The court computes that 307 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on April 15, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on April 24, 2015.

9. [12-28631](#)-B-13 KEVIN/INEZ SCOTT MOTION TO DISMISS CASE  
JPJ-3 Peter L. Cianchetta 4-21-15 [[102](#)]

WITHDRAWN BY M. P.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Chapter 13 Trustee having filed a withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

10. [15-20132](#)-B-13 ANGELLITA DRAYTON  
Justin K. Kuney

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-14-15 [[23](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 14, 2015. The court computes that 43 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on April 9, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on April 21, 2015.

11. [15-20232](#)-B-13 JASON NGUYEN  
Thomas L. Amberg

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-20-15 [[87](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 20, 2015. The court computes that 37 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$73.00 due on April 13, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$80.00 on April 22, 2015.

12. [15-20843](#)-B-13 KEVIN NELSON  
ERG-1 Scott J. Sagaria

CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
4-14-15 [[34](#)]

**Thru #13**

PATRICK BULMER VS.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Motion for Relief From Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties 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 for Relief From the Automatic Stay is denied as moot based on the dismissal of the case for the reasons stated in Item #13.

Patrick Bulmer ("Movant"), the court-appointed receiver for Service Outlet, a California corporation ("Service Outlet"), seeks relief from the automatic stay in order to allow *In re marriage of Nelson*, Placer County Superior Court case no. SDR-004132 ("Dissolution Action") to be concluded. The moving party has provided the Declaration of Patrick Bulmer to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Bulmer Declaration states that the Debtor holds a 50% interest in the insolvent corporation Service Outlet, an auto repair shop located at 7401 Galilee Road #150, Roseville, California. Movant was appointed in the dissolution action to liquidate assets and to further pay support to Debtor's ex-spouse from proceeds of the liquidation, if any.

No parties have filed opposition to the motion to date.

Debtor's case being dismissed for reasons stated in Item #13, this motion is rendered moot.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

First, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$220.00, which represents approximately 1 plan payment. Before this motion will be heard, an additional plan payment in the amount of \$220.00 will also be due. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Second, the Debtor has not provided the Trustee with copies of his payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Third, the Debtor has not provided the Trustee with a copy of his tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fourth, the Debtor has not submitted evidence to the court that he has filed his income tax returns for the last 4 years. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(e).

Fifth, the Debtor owed domestic support obligation according to Schedule I but has not provided the Trustee with the domestic support obligation checklist, thereby hindering the Trustee from performing his duties. The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

Sixth, the Debtor has not filed, set for hearing, or served a motion to confirm the plan as required pursuant to Local Bankr. R. 3015-1(c)(3) and 3015-1(d)(1). There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

14. [14-21846](#)-B-13 MARK/COLLEEN MARTIN  
JPJ-2 Scott D. Hughes

MOTION TO DISMISS CASE  
4-14-15 [[74](#)]

WITHDRAWN BY M.P.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Chapter 13 Trustee having filed a withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

**Tentative Ruling:** The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to dismiss the case.

First, Debtors' confirmed plan will take a total of 81 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4), and which is 21 months longer than the proposed commitment period of 60 months.

Second, the Debtors have not filed objections to claims or timely filed a modified plan. This constitutes unreasonable delay by the Debtors that is prejudicial to creditors. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Third, Debtors are delinquent to the Trustee in the amount of \$200.00, which represents approximately 1 plan payment. Before this motion will be heard, an additional plan payment in the amount of \$200.00 will also be due. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

16. [10-28759](#)-B-13 RODNEY/ANITA BROOKS  
Mark A. Wolff

ORDER TO SHOW CAUSE - FAILURE  
TO TENDER FEE FOR FILING  
TRANSFER OF CLAIM  
4-20-15 [[58](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 20, 2015. The court computes that 37 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the court will not strike the transfer of claim from Ocwen Loan Servicing, LLC to Nationstar Mortgage, LLC.

The Order to Show Cause was issued due to Nationstar Mortgage, LLC's failure to pay the \$25.00 fee for filing a transfer of claim prescribed by item 20 of the Bankruptcy Court Miscellaneous Fee Schedule. 28 U.S.C. § 1930(b). The transfer of claim appears as Dkt. 53. The court's docket reflects that Nationstar Mortgage, LLC has made the requisite payment on April 25, 2015.

17. [15-22361](#)-B-13 LISA THOMPSON  
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-29-15 [[22](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 29, 2015. The court computes that 28 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on April 24, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$80.00 on April 30, 2015.

**Tentative Ruling:** The Motion to Confirm Fourth Modified Chapter 13 Plan was originally set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not confirm the modified plan.

This matter was continued from May 13, 2014, to allow Debtors additional time to cure their delinquency to the Chapter 13 Trustee in the amount of \$816.00, which represents approximately 1 plan payment. The Debtors have not made a plan payment to the Trustee since February 2, 2015. The Debtors do not appear to be able to make plan payments as proposed and have not shown that the plan complies with 11 U.S.C. § 1325(a)(6).

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

19. [15-22673](#)-B-13 ROSALIND BOLDEN  
Julius M. Engel

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
5-6-15 [[17](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on May 6, 2015. The court computes that 21 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on May 1, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$79.00 and \$77.00 on May 14, 2015.

20. [14-23177](#)-B-13 GERALD YOUNG AND CARMEN MOTION TO DISMISS CASE  
JPJ-1 HEINRICHS YOUNG 4-21-15 [[21](#)]  
Diana J. Cavanaugh

**Tentative Ruling:** The Trustee's Motion to Dismiss Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to deny the motion without prejudice.

According to the Debtors, on May 11, 2015, the Chapter 13 Trustee acknowledged receipt of all requested documents. This includes a copy of the Debtors' income tax returns for the year 2014, the Debtors' W-2 Wage and Tax Statement for the year 2014, and copies of payment advices for January through March of 2015 pursuant to 11 U.S.C. § 521(f), Local Bankr. R. 3015-1(b)(5), and the duties imposed by Section 6.02 of the confirmed plan.

If the Debtors' representation is accurate, subject to confirmation at the hearing on this matter, cause does not exist to dismiss this case. The motion is denied without prejudice.

21. [15-22684](#)-B-13 JORGE VASQUEZ  
Mikalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
5-6-15 [[21](#)]

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on May 6, 2015. The court computes that 21 days' notice has been provided.

The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on May 1, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$79.00 on May 21, 2015.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

First, Debtor's confirmed plan will take a total of 70 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 10 months longer than the proposed commitment period of 60 months.

Second, the Debtor has not timely filed objections to the claims or timely filed a modified plan. The failure of the Debtor to timely file objections to claims or timely file a modified plan constitutes an unreasonable delay by the Debtor that is prejudicial to creditors. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Third, the Debtor is delinquent to the Trustee in the amount of \$2,383.00, which represents approximately 1 plan payment. By the time this motion will be heard, an additional plan payment in the amount of \$2,383.00 will also be due. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

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

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

First, Debtor's confirmed plan will take a total of 67 months to complete, which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) and which is 7 months longer than the proposed commitment period of 60 months.

Second, the Debtor has not timely filed objections to the claims or timely filed a modified plan. The failure of the Debtor to timely file objections to claims or timely file a modified plan constitutes an unreasonable delay by the Debtor that is prejudicial to creditors. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1).

Third, the Debtor is delinquent to the Trustee in the amount of \$5,569.95, which represents approximately 3 plan payments. The Debtor has not made any plan payments since December 10, 2014. There is cause to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) and (c)(4).

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

24. [12-22091](#)-B-13 CHRISTOPHER/IVY NAGEL MOTION TO DISMISS CASE  
JPJ-3 Al J. Patrick 4-14-15 [[70](#)]

WITHDRAWN BY M.P.

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Chapter 13 Trustee having filed a withdrawal of Trustee's Motion to Dismiss Case, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

25. [15-20392](#)-B-13 DERWIN TERRY  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-27-15 [[41](#)]

CASE DISMISSED: 05/01/2015

**Final Ruling:** No appearance at the May 27, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on April 27, 2015. The court computes that 30 days' notice has been provided.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on May 1, 2015 (Dkt. 50), the Order to Show Cause is discharged as moot, with no sanctions ordered.