

Eastern District of California

Honorable Christopher M. Klein

Chief Bankruptcy Judge
Sacramento, California

May 28, 2014 at 10:00 a.m.

1. [12-22801](#)-C-13 SUK KIM MOTION TO DISMISS CASE
TSB-2 Aaron C. Koenig 4-28-14 [[107](#)]

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

Correct 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 28, 2014. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to continue the hearing on the Motion to Dismiss to [date] at [time]. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Trustee moves for an order dismissing the case pursuant to 11 U.S.C. § 1307 because the Debtor is in material default pursuant to § 5.03 of the plan, which provides that if Debtor defaults under the plan, or if the plan will not complete within six months of its stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion pursuant to Local Bankruptcy Rule 9014-1.

According to the Trustee's calculations, the Plan will complete in 71 months as opposed to the 60 months proposed. This exceeds the maximum time allowed under 11 U.S.C. § 1322(d). The plan payment is \$1,910.00 monthly, or \$1,814.50 net of the Trustee's fees. After payment of the Class 1 monthly contract installment payment of \$1,214.83, \$599.67 remains to pay all other creditors. Remaining secured claims, interest, and unsecured claims to be paid through the plan total \$27,016.76. Thus, 46 months remain in the plan (\$27,016.76 divided by \$599.67). Debtor has completed 25 months, thus the total term of the plan is 71 months.

Debtor was provided a Notice of Filed Claims of September 26, 2012, Dckt. No. 50, which indicated that a motion to modify was required, Page 2, Item (f), if the Notice of Filed Claims includes allowed claims which will

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prevent the Chapter 13 plan from being timely completed.

DEBTOR'S RESPONSE

Debtor responds by acknowledging that the plan is overextended. Dckt. No. 111. Debtor states that the reason why the plan will not complete on time is because the mortgage company increased the mortgage payment from \$1,145.22 to \$1,214.83. As a result of the increased mortgage payment, the other creditors will not be getting the necessary monthly distribution.

Debtor states that in order to accommodate this change, he will need to either increase his income, or decrease his expenses (or a combination of both) in order to properly fund the plan. The debtor is working with his attorney to provide updated income and expenses to show that this is feasible, but because of the limited time has not been able to put everything together by this time. Debtor requests to have the moving date continued in order to fix this problem, and adds that he is current on his plan payments under the confirmed Chapter 13 Plan.

CONTINUANCE

The court will continue the hearing on this Motion to Dismiss to [date] at [time], to allow Debtor to work with his attorney to reassess his income and expenses, in order to set aside the funds so that Debtor can afford his increased mortgage payments and properly fund his Chapter 13 Plan.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 continued to [date] at [time].

2. [14-22304](#)-C-13 YVONNE JOHNSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-10-14 [[21](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 7, 2014). The court docket reflects that on April 24, 2014, the Debtor paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, the Order to Show Cause is discharged.

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

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

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions are ordered, and the case shall proceed.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on April 29, 2014. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to grant the Motion to Dismiss and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Trustee moves the court for an order dismissing this case pursuant to 11 U.S.C. § 1307 because there is no plan pending. Trustee's Objection to Confirmation, TSB-1, was sustained by the court at the hearing held on April 8, 2014. Dckt. No. 39. No subsequent amended plan or Motion to Confirm has been filed to date.

OPPOSITION TO MOTION TO DISMISS

Debtors respond by stating that they will have filed and served an amended plan prior to the date of this hearing. Dckt. No. 46. A review of the docket, however, shows that Debtors have not yet filed a new plan or a motion to confirm a plan. Debtors offers no explanation for the delay in setting the Plan for confirmation. This is unreasonable delay which is prejudicial to creditors. 11 U.S.C. §1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed. The court shall issue a minute order substantially in the following form holding that:

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

4. [14-23514](#)-C-13 CHERRANE/MICHAEL
MONTERROSA
Steven C. Lynes

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-18-14 [[11](#)]

CASE DISMISSED 4/22/14

Final Ruling: The case having previously been dismissed on April 22, 2014, the order is discharged as moot.

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

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

The Order to Show Cause having been
issued by the court, the case having been
previously dismissed, and upon review of the
pleadings, evidence, arguments of counsel, and
good cause appearing,

IT IS ORDERED that the order is
discharged as moot.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (previously *pro se*) and Office of the United States Trustee on April 28, 2014. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to grant the Motion to Dismiss and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Chapter 13 Trustee moves the court for an order dismissing the case pursuant to 11 U.S.C. § 1307(c) because the Debtor is in material default. Debtor failed to provide for the Priority portion of the claim of the Internal Revenue Service, Proof of Claim No. 5, in the amount of \$1,739.46. § 2.13 of the Plan makes this failure a breach of the plan.

OPPOSITION BY DEBTOR

Debtor, previously *pro se*, responds and states he filed Chapter 13 *In Pro Per* and that Counsel substituted into this case on May 10, 2014. Debtor pledges to file, set and serve a Modified Plan on or before the hearing in this matter, and states that he will be current under the terms of the proposed modified plan. Dckt. No. 47.

A review of the docket, however, shows that no new Modified Plan has been filed, served, and set for a confirmation hearing. This is unreasonable delay which is prejudicial to creditors. 11 U.S.C. §1307(c)(1). Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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. [13-20718](#)-C-13 ROBERT/VERLENA KELLER MOTION TO DISMISS CASE
DPC-2 Stephen M. Reynolds 4-28-14 [[76](#)]

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtors' Attorney, and Office of the United States Trustee on April 28, 2014. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to grant the Motion to Dismiss and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case on the basis that the Debtors are \$1,140.00 delinquent in plan payments. The Trustee shows that a total of \$4,500 is due. To date the Debtors have paid a total of \$3,360.00, so the Debtors are delinquent \$1,140.00 in plan payments. Debtor's monthly plan payment is \$300.00.

Prior to the hearing on this matter, another payment of \$300.00 will come due. As a result, Debtor will need to pay \$1,440.00 in order to bring this plan current by the date of the hearing. Debtor is in material default with respect to the terms of the confirmed plan pursuant to 11 U.S.C. § 1307(c)(6).

OPPOSITION TO THE MOTION TO DISMISS

Debtors respond by acknowledging the missed payments, and state that they will propose a plan that will increase plan payments to allow plan completion within sixty months of commencement of payments under the presently confirmed plan. Dckt. No. 80.

A review of the docket, however, shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Thus, the cause of Debtor's delinquency exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

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

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

7. [13-28921](#)-C-13 BURT/LORI HESTAND MOTION TO DISMISS CASE
TSB-1 Nikki Farris 4-30-14 [[80](#)]

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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

Correct 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 22, 2014. By the court's calculation, xx days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to continue the hearing on the Motion to Dismiss to [date] at [time]. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Trustee moves the court for an order dismissing this case pursuant to 11 U.S.C. § 1307 on the basis that Debtor is causing an unreasonable delay that is prejudicial to creditors. Debtor is \$4,180.00 delinquent in plan payments to date, and the next scheduled payments of \$3,065.00 is due on April 25, 2014. The case was filed on February 8, 2013, and the Plan in § 1.01 calls for payments to be received by the Trustee no later than the 25th day of each month, beginning the month after the order for relief under Chapter 13. Debtor has paid \$35,665.00 into the Plan to date, and Debtor last paid on January 23, 2014.

Additionally, Trustee states that there has been an unreasonable delay in filing a new plan. The case was filed on February 8, 2013, approximately 13 months ago, and Debtor has yet to confirm a Plan. The Debtor's Motion to Confirm Amended Plan, RLC-2 was heard and denied on January 14, 2014, and Debtor has failed to amend the Plan and set a confirmation hearing to date.

OPPOSITION BY DEBTOR

Debtor responds by stating that she has fallen behind on plan payments and is proposing a new plan. Dckt. No. 147. Debtor states that she has had illness this winter that took eight weeks to recover from. In addition, she has had cataract replacement surgery for both eyes that required approximately \$10,000 in medical copayments.

Debtor also states that she has continued to make progress with the Bay Area Rapid Transit District ("BART") and anticipates additional payments that should allow her to make supplemental payments to catch up on the missed payments this winter. Debtor requests that the present motion be dismissed without prejudice or continued to the date set for a hearing on

Plan confirmation.

The court will continue the hearing on this Motion to [date] and [time]; however, if a new plan is not filed, served, and set for a confirmation hearing by that time, the court would be prudent in dismissing the case pursuant 11 U.S.C. § 1307 for an unreasonable, excessive delay that has been prejudicial to Debtor's creditors.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 continued to [date] at [time].

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

Correct 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 22, 2014. By the court's calculation, 36 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to continue the hearing on the Motion to Dismiss to June 10, 2014 at this court at 2:00 pm. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Trustee moves the court for an order dismissing this case pursuant to 11 U.S.C. § 1307(c) on the following grounds:

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341 on April 10, 2014. The meeting has been continued to June 5, 2014 at 10:30 AM. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay which is prejudicial to creditors and cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

Debtor has not provided Trustee with a tax transcript or copy of her Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists under 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors, 11 U.S.C. § 521(e)(2)(A)(1).

Debtor's Plan was filed on March 24, 2014, but Debtor has not served the plan to all interest parties and no Motion to Confirm Plan is pending. The petition in this case was filed on February 24, 2014 without a plan. The Trustee issued a Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, and Deadlines on March 12, 2014. A confirmation hearing is normally to be held not later than 45 days after the first meeting of creditors, unless the court determines it should be held sooner. 11 U.S.C. § 1324.

A motion to convert this matter to a Chapter 11 is currently set for hearing on June 3, 2014. Dckt. No. 25. In the event that the court does not grant the motion, this case should be dismissed.

OPPOSITION BY DEBTOR

Debtor states that there was a motion to convert to Chapter 11 set for the June 3, calendar, and that Debtor's counsel file an amended notice of hearing which was filed in error. Debtor's counsel states that he will reset the motion to convert to Chapter 11 for June 3. Debtor requests that the court continues the hearing on the present Motion to that date.

Debtor's counsel also states that a copy of this statement has been served on the Chapter 13 Trustee by mail, and that Debtor's counsel will deliver a copy of Debtor's 2012 Form 1040 Tax return to Trustee as well. Dckt. No. 35.

Operating on the assumption that Debtor's counsel will reschedule and renotice the hearing on Debtor's Motion to Convert the Chapter 13 to Chapter 11 Case, RJ-2, to June 3, 2014, the court will continue the instant Motion to Dismiss to the next available Chapter 13 hearing at June 10, 2014 in this court at 2:00 pm.

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee 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 June 10,
2014, at 2:00 pm.

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

Final Ruling: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtors, Debtor's Attorney, and Office of the United States Trustee on April 30, 2014. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

Final Ruling: The Motion to Dismiss 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 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. No appearance required.

The Trustee moves the court for an order dismissing this case pursuant to 11 U.S.C. § 1307 because there is no plan pending. Debtors' Motion to Confirm, SL-1, was heard and denied by this court at the hearing on March 25, 2014. Dckt. No. 58. No subsequent amended plan or Motion to Confirm has been filed to date.

A review of the docket shows that Debtors have not yet filed a new plan or a motion to confirm a plan. Debtors offer no explanation for the delay in setting the Plan for confirmation. This is unreasonable delay which is prejudicial to creditors. 11 U.S.C. §1307(c)(1).

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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. [14-20239](#)-C-13 ALEJANDRO/JOANN REYES
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-15-14 [[36](#)]

Final Ruling: The court issued an order to show cause based on Debtors' failure to pay the required fees in this case (\$70.00 due on April 10, 2014). The court docket reflects that on May 7, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees having been paid, the Order to Show Cause is discharged.

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

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

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions are ordered, and the case shall proceed.

14. [14-21340](#)-C-13 NATALIE PELTON
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-21-14 [[24](#)]

Tentative Ruling: The court issued an order to show cause on debtor's failure to pay the required filing fee installment payment of \$70.00 due on April 14, 2014. The court docket reflects that payment has not been made and that subsequent payment due on May 14, 2014 was also not made.

The court's tentative decision is to sustain the Order to Show Cause and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

Debtor provided no response to the Order. The court issued a recent Order to Show Cause for missed payment of \$70.00 due May 14, 2014. Debtor is not making the required installment payments.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

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

Correct 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 30, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case on the following basis:

1. Debtor is \$521.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$521.01 is due on May 25, 2014. Debtor has paid \$1,042.02 into the plan to date.
2. Trustee's Objection to Confirmation was heard and sustained on April 8, 2014 and Debtor has yet to file a subsequent plan or motion to confirm.
3. Debtor's Motion to Value the secured claim of GMAC/Ocwen Loan Servicing was denied on April 8, 2014. Trustee cannot determine whether Debtor can pay the plan payments or whether the plan is feasible.

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

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee 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.

16. [12-30049](#)-C-13 SONIA ZAMORA MOTION TO DISMISS CASE
TSB-1 Peter G. Macaluso 4-28-14 [[29](#)]

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

Correct 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 28, 2014. 28 days' notice is required. That requirement was met.

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

The court's tentative decision is to continue the hearing on the Motion to Dismiss to June 10, 2014 at 2:00 pm. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Chapter 13 Trustee moves to Dismiss Debtors' Bankruptcy Case for the following reasons:

1. Debtor is in default with regard to § 2.8(b)(4)(I) of the plan, which provides: "If the holder of a Class 1 claim gives Debtor and Trustee notice of a payment change in accordance with Fed. R. Bankr. P. 3002.1(b), Debtor shall adjust the payment accordingly."

Debtor was provided a Notice of Mortgage Payment Change, indicating the new mortgage payment to the Class 1 creditor Bank of America, N.A. would be \$1,931.52, effective February 1, 2014. Debtor has not adjusted the plan payment nor objected to Bank of America, N.A.'s Notice.

2. Debtor cannot make the payments required under 11 U.S.C. § 1325(a)(6). Debtor is \$1,625.00 delinquent under the terms of the confirmed plan.

Debtors' Opposition, filed 05/14/14 (Dkt. 49)

Debtor states that while she did not increase the Class 1 creditor monthly payment, she has obtained a trial loan modification. A hearing on the

modification is set for June 10, 2014 and Debtor has filed a modified plan for June 24, 2014.

Debtor asserts that she is current under the proposed plan.

Discussion

The court's decision is to continue the hearing on the Motion to Dismiss to June 10, 2014, to be heard concurrently with the Motion to Approve Loan Modification (PGM-3). At that time, if Debtor remains in default under the plan, the court will reconsider dismissing the case.

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee 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 June 10, 2014
at 2:00 pm.

17. [13-20551](#)-C-13 MARVIN MISLANG
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO TENDER FEE FOR FILING
TRANSFER OF CLAIM
4-2-14 [[95](#)]

Final Ruling: The court issued an order to show cause on U.S. Bank National Association's failure to tender \$25.00 fee for filing transfer of claim, due on March 19, 2014. The court docket reflects that payment was made.

The Order to Show Cause is discharged. No appearance required. The court makes the following findings of fact and conclusions of law:

Docket reflects that the \$25.00 fee was paid on April 2, 2014.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged.

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

Correct 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 15, 2014. 28 days' notice is required. That requirement was met.

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

The court's tentative decision is to continue the hearing on the Motion to Dismiss to June 10, 2014 at 2:00 pm. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Chapter 13 Trustee moves to Dismiss Debtors' Bankruptcy Case for the following reasons:

1. Debtor did not appear at the First Meeting of Creditors held on April 10, 2014. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

Debtor's Opposition

Debtor states that the continued 341 Meeting is scheduled for June 5, 2014 and he intends on appearing. Further, Debtor asserts that he has provided the 2012 taxes to the Trustee's office.

The court's decision is to continue the hearing on the Motion to Dismiss to June 10, 2014 at 2:00 pm. If Debtor does not attend the continued 341 Meeting on June 5, 2014, the court will entertain dismissal of the case on the basis that Debtor's lack of prosecution is causing unreasonable delay that is prejudicial to creditors.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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 June 10, 2014 at 2:00 pm.

19. [14-22652](#)-C-13 ADAM/SARAH REDFIELD
Aaron C. Koenig

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-21-14 [[19](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 16, 2014). The court docket reflects that on April 30, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees having been paid, the Order to Show Cause is discharged.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged, no sanctions are ordered, and the
case shall proceed.

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

Correct 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 15, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case on the following basis:

1. Debtor did not appear at the First Meeting of Creditors held on April 10, 2014. Pursuant to 11 U.S.C. § 343, Debtor is required to appear at the meeting. The continued meeting is scheduled for June 12, 2014 at 10:30 am.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

Pursuant to 11 U.S.C. § 1307(c), cause exists to dismiss this case as Debtor's lack of prosecution is resulting in unreasonable delay that is prejudicial to creditors. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

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

Correct 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 26, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case on the basis that the Debtors are in material default under the terms of the plan. 11 U.S.C. § 1307(c)(6). To date, Debtors have paid \$122,583 into the plan, with the last payment made January 30, 2014. Trustee's records show a total of \$131,439 due, making the Debtors \$8,856 delinquent in plan payments.

Prior to the hearing on this matter, two additional payments (monthly payment is \$3,983) totaling \$7,966 will come due. As a result, Debtors will need to pay \$16,822 to bring the plan current by the hearing date.

Discussion

Debtors have not proposed an Amended Plan or presented the court with evidence that they have brought their plan payment current. Therefore, as Debtor remains in material default under the terms of the confirmed plan, the court finds cause to dismiss the case. 11 U.S.C. § 1307(c)(6).

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

22. [14-22169](#)-C-13 OMOTAYO FASUYI
Thru #23 Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-7-14 [[16](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 2, 2014).

The court's tentative decision is to sustain the Order to Show Cause and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The docket does not reflect that the fees have been paid. Debtor has also not made the installment payment due May 2, 2014 (Dkt. 25). Therefore, the court's decision is to sustain the order to show cause and dismiss the case.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

23. [14-22169](#)-C-13 OMOTAYO FASUYI
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-7-14 [[25](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on May 2, 2014).

The court's tentative decision is to sustain the Order to Show Cause and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The docket does not reflect that the fees have been paid. Therefore, the court's decision is to sustain the order to show cause and dismiss the case.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

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

Correct 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 15, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor is \$1,375 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,375.00 is due on April 25, 2014. Debtor has paid \$0.00 into the plan to date.
2. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
3. Debtor admitted at the First Meeting of Creditors on April 10, 2014 that he had not filed tax returns due during the four-year period preceding filing for bankruptcy relief. 11 U.S.C. § 1325(a)(9).

Pursuant to 11 U.S.C. § 1307(c), cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

25. [13-35276](#)-C-13 ANA TREVINO
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-7-14 [[36](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$71.00 due on April 1, 2014). The court docket reflects that on April 7, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees having been paid, the Order to Show Cause is discharged.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged, no sanctions are ordered, and the
case shall proceed.

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

Correct 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 April 22, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor did not notice all interested parties of the Amended Chapter 13 Plan and set a confirmation hearing. The plan was filed March 7, 2014.
2. Debtor is \$1,182 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,182.00 is due on September 25, 2013. Debtor has paid \$0.00 into the plan to date.
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

Pursuant to 11 U.S.C. § 1307(c), cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall issue a minute order substantially in the following form

holding that:

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

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

Correct 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 28, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor is in material default under the terms of the confirmed plan. Debtor did not provide for the priority claim of the Franchise Tax Board (Claim 4) in the amount of \$873.54. Section 2.13 of the plan makes this failure a breach. Debtor was provided a Notice of Filed Claims on April 18, 2013, which lists this claim on Page 7 as a priority claim not provided for in the plan and indicated that a Motion to Modify was required.
2. According to Trustee's calculations, the plan will complete in 119 months and not 60 months. 11 U.S.C. § 1322(d). The monthly plan payment is \$2,581, which is \$2,451.95 net of Trustee fees. The Class 1 monthly contract installment payment is \$1,258.02, which leaves \$1,193.93 per months for all other creditors. Approximately \$120,185, including interest, remains to be paid to creditors under the confirmed plan. Debtors have completed 18 months of the plan with approximately 118 months remaining (\$120,185 divided by \$1,193.93).

Debtor has not filed a Modified Plan to address the concerns outlined by the Trustee and has not responded to the Trustee's Motion. At the this, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

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

Correct 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 28, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case on the basis that the Debtors are in material default under the terms of the confirmed plan. 11 U.S.C. § 1307(c)(6). To date, Debtors have paid a total of \$32,933.25 in to the plan, with the last payment received on March 13, 2014. Trustee's records reflect a total due of \$36,069.75, making the Debtors \$3,136.50 delinquent in plan payments. Prior to the hearing, another payment of \$1,568.25 will come due, making the Debtors delinquent \$4,704.75.

Debtor has not presented the court with a modified plan nor indicated that the deficiency outlined by the Trustee has been cured. Therefore, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13
case filed by the Chapter 13 Trustee 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.

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

Correct 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 28, 2014. 28 days' notice is required. That requirement was met.

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

The court's tentative decision is to grant the Motion to Dismiss and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The Chapter 13 Trustee moves to Dismiss Debtors' Bankruptcy Case because Debtor is in material default with respect to the terms of the confirmed plan. According to Trustee's calculations, the plan will complete in over 879 months, as opposed to 60 months. 11 U.S.C. § 1322(d). Debtor has not adjusted the plan payment. A Notice of Mortgage Payment Change was filed on December 4, 2013, which increased the monthly contract installment from \$1,426.75 to \$1,970.36, effective February 1, 2013.

The plan payment of \$2,130 net of Trustee fees and the Class 1 monthly contract installment of \$1,907 is \$53.14. Remaining amounts to be paid to creditors under the confirmed plan total \$45,954.90 plus interest.

Debtors' Opposition

Debtor agrees with the Trustee's objection and provides that he is working with his attorney to provide updated income and expenses to show that the plan is feasible. Debtor requests the court grant him time up to the hearing date to resolve this issue.

Discussion

To date, Debtor has not provided evidence to the court that this plan is feasible, filed amended Schedules, or presented a modified plan to the court. Therefore, cause remains to dismiss Debtors' case for material default under 11 U.S.C. § 1307(c)(6).

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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: The Chapter 13 Trustee having filed a "Notice of Withdrawal" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Notice of Withdrawal" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7014, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

31. [14-21492](#)-C-13 WINONA EDMONSON
Thru #32 Joseph M. Canning

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-24-14 [[24](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 21, 2014). The court docket reflects that on May 8, 2014, the Debtors paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees having been paid, the Order to Show Cause is discharged.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged, no sanctions are ordered, and the
case shall proceed.

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

Correct 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 30, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor is \$2,400 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,200.00 is due on May 25, 2014. Debtor has paid \$0.00 into the plan to date.
2. Debtor filed a plan on March 11, 2014, but it was not served on all interest parties and was not filed with a corresponding Motion to Confirm. A confirmation hearing is required to be held not earlier than twenty days and not later than 45 days after the date of the meeting of creditors, unless the court determines that it would be in the interests of the creditors and estate to hold the hearing sooner. 11 U.S.C. § 1324(b). The first meeting of creditors was held on April 3, 2014.
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor has not paid the \$70.00 filing fee installment payment due April 21, 2014.

The court finds sufficient cause to dismiss Debtor's case. While Debtor did pay the installment fee on May 8, 2014, the court lacks evidence that Debtor is current on plan payments and is adequately prosecuting the case. Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

33. [14-20995](#)-C-13 RODNEY/CHANDRA LAMBERT
Thru #34 Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-9-14 [[115](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on May 5, 2014).

The court's tentative decision is to sustain the Order to Show Cause and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The fee due May 5, 2014 not having been paid, the court's decision is to sustain the order to show cause and dismiss the case. Debtors also failed to pay an installment payment of \$70.00 due April 14, 2014, subject of a second order to show cause (Dkt. 91).

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged, no sanctions are ordered, and the
case shall proceed.

34. [14-20995](#)-C-13 RODNEY/CHANDRA LAMBERT
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-9-14 [[91](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 14, 2014).

The court's tentative decision is to sustain the Order to Show Cause and dismiss the case. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

The court docket reflect that the fee was not paid. Further Debtor's did not pay the installment fee due on May 5, 2014 (Dkt. 115).

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
discharged, no sanctions are ordered, and the
case shall proceed.

35. [14-22398](#)-C-13 JESSE LOVEDAY
Thru #36 Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-14-14 [[19](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 9, 2014).

The Order to Show Cause is sustained and the case is dismissed. No appearance required. The court makes the following findings of fact and conclusions of law:

The fee not having been paid, the Order to Show Cause is sustained and the case is dismissed. The court is simultaneously granting the Chapter 13 Trustee's Motion to Dismiss Debtor's case. (Dkt. 20, NLE02).

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

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

Correct 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 15, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor did not provide proof of his social security number to the Trustee.
2. Debtor did not provide proof of his identity to the Trustee.
3. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.

37. [14-21099](#)-C-13 VIKTOR RADOMSKIY
Thru #39 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-11-14 [[36](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on April 7, 2014).

The Order to Show Cause is sustained and the case is dismissed. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees not having been paid, the Order to Show Cause is sustained and the case is dismissed. The court is simultaneously granting Chapter 13 Trustee's Motion to Dismiss (Dkt. 28, NLE-3). Further, Debtor is also delinquent for the installment payment due May 6, 2014 (Dkt. 49).

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

38. [14-21099](#)-C-13 VIKTOR RADOMSKIY
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-12-14 [[49](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70.00 due on May 6, 2014).

The Order to Show Cause is sustained and the case is dismissed. No appearance required. The court makes the following findings of fact and conclusions of law:

The fees not having been paid, the Order to Show Cause is sustained and the case is dismissed. The court is simultaneously granting Chapter 13 Trustee's Motion to Dismiss (Dkt. 28, NLE-3). Further, Debtor is also delinquent for the installment fee due April 7, 2014.

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

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

The Order to Show Cause having been presented
to the court, and upon review of the pleadings,
evidence, arguments of counsel, and good cause
appearing,

IT IS ORDERED that the Order to Show Cause is
sustained and the case is dismissed.

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

Correct 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 26, 2014. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss 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 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. No appearance required. The court makes the following findings of fact and conclusions of law:

The Trustee seeks dismissal of the case for the following reasons:

1. Debtor did not provide Trustee with a tax transcript or copy of his Federal Income Tax return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
2. Debtor may have not filed all pre-petition tax returns required for the four years preceding the filing of the petition. 11 U.S.C. § 1308 and 11 U.S.C. § 1325(a)(9). Debtor testified at the First Meeting of Creditors on March 20, 2014, that he was not certain if all required returns were filed for tax years 2009 through 2012.
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee 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.