

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

**June 4, 2025 at 9:00 a.m.**

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| 1. <a href="#">25-20612-E-13</a><br><a href="#">DPC-2</a> | DAVID/JENNIFER OROZCO<br>Scott Johnson | MOTION TO DISMISS CASE<br>5-7-25 <a href="#">[32]</a> |
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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

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

1. The debtor, David Orozco and Jennifer Solange Orozco ("Debtor"), failed to appear and could not be examined at the continued First Meeting of Creditors held at 2:00 p.m., on May 1, 2025. Mot. 1:22-23, Docket 32.
2. The Trustee and creditor, New American Funding, LLC, both objected to confirmation of the Debtors' original Plan, which was sustained at hearing

on April 22, 2025. Debtor failed to file an amended Plan and set for confirmation. *Id.* at 1:26-28.

3. Debtor has omitted from their Schedules an asset of real property. *Id.* at 2:1-5.
4. Debtor has failed to provide business documents to Trustee. *Id.* at 2:6-25.
5. There are various wire transfers that may not be reconciled with what is on the Statement of Financial Affairs (“SOFA”). *Id.* at 2:26-3:1.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 34.

### **Debtor Response**

On May 28, 2025, Debtor filed a Response to the Motion to Dismiss. Dckt. 38. Debtor David Orozco is a pilot serving the United States Air Force, and due to his service the assembling of information has been more challenging than in the standard bankruptcy case. Debtor promises that the business documents identified in Part 4 of the Trustee’s Motion will be delivered prior to the June 4, 2025 hearing on this Motion. *Id.*; ¶ 1.

With respect to failing to attend the 341 Meeting of Creditors, both of the debtors in this Bankruptcy Case have now appeared at the initial Meeting, which was continued to allow the Debtor to complete and file their 2024 tax return. Debtor David Orozco was deployed on the same day as the continued 341 Meeting. Counsel for Debtor requested a further continuance, but the Chapter 13 Trustee concluded the meeting and has filed the present Motion.

In response to Part 3 of the Motion, that Debtor failed to disclose ownership of property in Columbia from their corporation One Speed Ventures, which was acquired for \$360,000 in December 2022 and Debtor received possession thereof at the end of 2023, Debtor disclosed the property and its ownership by One Speed Ventures. The issue was whether a fuller description of the assets of the business assets was required. *Id.*; ¶ 4.

Because the Debtor has not been able to produce the requested business documents as of the May 28, 2025 filing of the Response, counsel for Debtor cannot proceed with filing an amended plan. *Id.*; ¶ 5.

### **DISCUSSION**

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

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on April 22, 2025. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

#### **Failed to Appear at § 341 Meeting of Creditors**

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

#### **Failure to File Documents Related to Business**

Debtor has failed to timely provide Trustee with business documents including:

- A. Six (6) individual months of Profit and Loss Statements for One Speed Ventures, LLC,
- B. 2024, or if not filed, 2022 individual tax returns,
- C. Two (2) most recent years tax returns for One Speed Ventures, LLC, and
- D. Six (6) months of any financial statements not previously provided, such as Bank of America (acct #4467).

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Without Debtor submitting all required documents, the court and Trustee are unable to determine if the Plan is feasible, viable, or complies with 11 U.S.C. § 1325. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

At the hearing, **XXXXXXX**

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is XXXXXXX.**

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

1. The debtor, Gary Duane Sparks ("Debtor"), is delinquent \$5,595.00 in plan payments. Debtor will need to have paid \$16,785.00 to become current by the hearing date. Mot. 1:19-22, Docket 110.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 112.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on May 21, 2025. Dockets 114, 116. Debtor states the delinquency is in the process of being cured and will be cured fully by the first week of June.

## **DISCUSSION**

### **Delinquent**

Debtor is \$5,595.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states he is in the process of curing the delinquency. At the hearing, XXXXXXX

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

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

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

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

3. [22-21027-E-13](#)      **JAMES BURKE**      **MOTION TO DISMISS CASE**  
[DPC-4](#)      **Michael Hays**      **4-16-25 [76]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, James Jacob Burke (“Debtor”), is delinquent \$3,641.74 in plan payments. Debtor will need to have paid \$7,517.70 to become current by the hearing date. Mot. 1:19-22, Docket 76.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 78.

## **DEBTOR’S RESPONSE**

Debtor filed a Response and supporting Declaration on May 21, 2025. Dockets 80, 81. Debtor states the delinquency will be cured by at least June 14, 2025, and if not, Debtor will file to convert the case to one under Chapter 7.

## **DISCUSSION**

## **Delinquent**

Debtor is \$3,641.74 delinquent in plan payments, which represents multiple months of the \$1,937.98 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states he is in the process of curing the delinquency. However, the Debtor has not filed a Declaration opposing this Motion. Rather, a declaration of Debtor's counsel's Office Manager states that she heard the Debtor tell her that the Debtor intends to "bring his account fully current by bring the funds to Mr. Hay's office for mailing no later than June 2, 2025. Dec.; Dckt. 81 at 2:4-8.

In the Response, no explanation is argued as to why the immediate defaults in this Case, which was filed on April 26, 2025 have occurred.

At the hearing, **XXXXXXX** .

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

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

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

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

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

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The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on May 21, 2025. The court computes that 14 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on May 13, 2025.

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| <b>The Order to Show Cause is sustained, and the case is dismissed.</b> |
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The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

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

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

The 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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

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

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

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

1. The debtor, Derek L Wolf ("Debtor"), is delinquent \$42,033.93 in plan payments. Debtor will need to have paid \$45,512.77 to become current by the hearing date. Mot. 1:19-22, Docket 360.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 362.

## DEBTOR'S RESPONSE

Debtor filed a Response on May 21, 2025. Docket 367. Debtor states the delinquency is only \$2,672.66. Debtor's counsel informs the court he is unable to contact Debtor and requests a continuance to allow Debtor to appear.

In the Response, Debtor's counsel states that 42 Class 1 Claim payment of \$783.99 have come due, for a total amount of \$32,927.58. Response, ¶ 4; Dckt. 367. Debtor then states that the Trustee's fee on the \$32,927.58 is \$2,634.21. *Id.*; ¶ 5.

It is then stated that the post-petition arrearage is only \$2,672.66. *Id.*; ¶ 8. It does not state what payments have been made and how the \$2,627.66 arrearage is computed.

## DISCUSSION

### Delinquent



According to Trustee, Debtor is \$42,033.93 delinquent in plan payments, which represents multiple months of the \$1,739.42 plan payment. Debtor states the delinquency is only \$2,672.66; however, Debtor is delinquent in either situation. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states his pre-petition arrearage on his mortgage loan has been cured, so it raises the question of what is there left to do in this case.

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

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

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

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

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

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| 6. <a href="#">24-20343-E-13</a><br><a href="#">DPC-3</a> | <b>RHONDA ROBERTS</b><br><b>Peter Macaluso</b> | <b>MOTION TO DISMISS CASE</b><br><b>4-16-25 [81]</b> |
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**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

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| <b>The Motion to Dismiss is <span style="color: red;">xxxxxxx</span>.</b> |
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Rhonda Faye Roberts (“Debtor”), is delinquent \$4,102.00 in plan payments. Debtor will need to have paid \$9,390.68 to become current by the hearing date. Mot. 1:19-22, Docket 81.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 83.

## **DEBTOR’S RESPONSE**

Debtor filed a Response and supporting Declaration on May 20, 2025. Dockets 85, 86. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$4,102.00 delinquent in plan payments, which represents multiple months of the \$2,644.34 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In confirming if the delinquency has been cured, at the hearing, **XXXXXXX**.

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

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

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| <b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span>.</b> |
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Martha Espinoza ("Debtor"), is delinquent \$582 in plan payments. Debtor will need to have paid \$1,164.00 to become current by the hearing date. Mot. 1:19-22, Docket 37.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 39.

## DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on May 21, 2025. Dockets 41, 42. Debtor states the delinquency will be cured prior to the hearing date.

## DISCUSSION

### Delinquent

Debtor is \$582 delinquent in plan payments, which represents multiple months of the \$291.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In confirming if the delinquency has been cured, at the hearing, XXXXXXX .

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

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

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

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

8. [25-20052](#)-E-13

**TAMMI KELLER**  
**Peter Macaluso**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**5-12-25 [68]**

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter. If the court’s tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 14, 2025. The court computes that 21 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on May 7, 2025.

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| <b>The Order to Show Cause is sustained, and the case is dismissed.</b> |
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The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

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

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

The 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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is conditionally granted, and the case will be dismissed if the Debtor is not current on all Plan payments as of July 1, 2025.**

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

1. The debtor, Andre Shavers ("Debtor"), is delinquent \$5,500.00 in plan payments. Debtor will need to have paid \$9,500.00 to become current by the hearing date. Mot. 1:19-22, Docket 71.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 73.

## DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on May 21. Dockets 76, 77. Debtor informs the court that his friend will be gifting him the funds to cure the delinquency in early June. Debtor requests a conditional order either dismissing the case or denying the Motion if Debtor is not current by June 25, 2025.

## DISCUSSION

### Delinquent

Debtor is \$5,500 delinquent in plan payments, which represents multiple months of the \$2,000 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states he is in the process of curing the delinquency, requesting a conditional order if the delinquency is not cured by June 25, 2025.

At the hearing, **XXXXXXX**

~~\_\_\_\_\_ The Motion to Dismiss is conditionally granted, with the bankruptcy to be dismissed if Debtor is not current on all plan payments and has filed and served a Plan and motion to confirm on or before July 1, 2025.~~

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

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

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

**IT IS ORDERED** that the Motion is conditionally granted and the case will be dismissed if and the Debtor is not current on Plan payments on or before **July 1, 2025** (the "conditions" for dismissal of this case).

~~\_\_\_\_\_ **IT IS FURTHER ORDERED** that if the Debtor is not current on Plan payments on or before July 1, 2025; the Chapter 13 Trustee shall:~~

- ~~\_\_\_\_\_ 1. \_\_\_\_\_ File and serve a declaration attesting to the failure of the Debtor to complete the conditions set forth in the above paragraph on or before July 1, 2025, and~~
- ~~\_\_\_\_\_ 2. \_\_\_\_\_ Lodge with the court a proposed order dismissing this Bankruptcy Case.~~

~~\_\_\_\_\_ **IT IS FURTHER ORDERED** that the hearing on the Motion to Dismiss is continued to **9:00 a.m. on July 9, 2025**, for the court's case management if the Debtor satisfies the conditions in this Order and this Case is not dismissed.~~

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

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 8, 2025. The court computes that 27 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on April 28, 2025.

**The Order to Show Cause is sustained, and the case is dismissed.**

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

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

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

The 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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on November 22, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

**The Motion to Dismiss is XXXXXXX.**

#### **June 4, 2025 Hearing**

The court continued the hearing to allow Debtor to make the final payments to complete the Plan. The Chapter 13 Trustee filed a Status Report on May 21, 2025. Docket 124. Trustee informs the court that Debtor paid \$511.01 on April 8, 2025, and now only \$1,000 remains to complete the Plan. However, no further payments have been made.

Trustee requests dismissal.

At the hearing, XXXXXXX

#### **Important Matter to Address**

Debtor’s counsel of record is no longer practicing law in the State of California. No new counsel has been substituted in place of the prior counsel.

The information provided by the Trustee states that the Debtor in “only” delinquent \$2,547.65, the payment of which is necessary to complete the Plan. This represents approximately four monthly payments. The Chapter 13 Plan provides for a 100% dividend for creditors holding general unsecured claims. Dckt. 3 at p. 5.



The court also notes that Resurgent Capital Services filed a Withdrawal of Proofs of Claims 3, 4, 5, and 6, the dollar amounts of which aggregate (\$7,552.44) in general unsecured claims. There is only (\$1,616.66) in other general unsecured claims. The only other creditor being paid through the Plan is Yolo County for its property tax claim.

Thus, while the Debtor may be on the edge of completing the Plan for a small dollar amount, it appears that Debtor may have dealt with the property tax claim outside of the Plan and has obviated the need for completing the Plan.

As stated at the March 5, 2025 Hearing, new counsel is substituting in to assist the Debtors in concluding this Case.

### **REVIEW OF MOTION**

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

1. The debtor, Armando Gonzalez and Yolanda Gonzalez (“Debtor”), is delinquent \$2,547.65 in plan payments. Debtor will need to have paid \$2,547.65 to become current by the hearing date. Mot. 1:25-28, Docket 32. Debtor is in month 67 of a 60-month plan so no further payment is required prior to the hearing. Mot. 1:26-28, Docket 32.
2. According to the Trustee’s records, debtor owns \$359,925.00 in non-exempt equity. Mot. 2:3-4, Docket 32. Trustee states due to various factors, including the nature of the assets, this being Debtor’s first bankruptcy filing, the fact that Debtor is in month 67 of a 60-month plan and also that it does not appear the Debtor is acting in bad faith, the Trustee believes that conversion to Chapter 7 is not in the best interest of creditors. Mot. 2:5-9, Docket 32.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 34.

### **DEBTOR’S RESPONSE**

Debtor has not filed a Response as of January 13, 2025.

### **DISCUSSION**

#### **Delinquent**

Debtor is \$2,547.65 delinquent in plan payments. As Debtor is in month 67, the amount to complete the Plan is the delinquent amount of \$2,547.65.

At the hearing, the Parties agreed to continue the hearing to afford Debtor, who has one plan payment remaining, an additional opportunity to complete the Chapter 13 Plan.

The hearing is continued to 9:00 a.m. on March 5, 2025.

### **March 5, 2025 Hearing**

The court continued the hearing on the Motion, this being a unique case where Debtor had one final payment to make to complete a Plan that would pay 100% to general unsecured creditors. A review of the Docket on February 27, 2025 reveals nothing new has been filed with the court.

New counsel for the Debtor appeared, reporting that he is substituting in so that the Debtors can complete the Plan. Both Debtors appeared and demonstrated that they are actively involved with getting this Plan completed.

The Parties agreed to a continuance of the hearing to allow new counsel to get the final payment wrapped up and the Plan completed.

The hearing on the Motion to Dismiss is continued 9:00 a.m. on April 16, 2025.

### **April 16, 2025 Hearing**

The court continued the hearing on this Motion as Debtors are represented by new counsel and had on final payment to make to complete the Plan. A review of the Docket on April 9, 2025 reveals nothing new has been filed with the court.

At the March 5, 2025 hearing, Attorney Peter Macaluso, Esq. appeared and indicated that he was taking on the representation so that the Debtor could make the final payment.

At the April 16, 2025 hearing, no appearance was made by Debtors. Mr. Macaluso, who has not substituted in as counsel, reported that he would drive to the debtor's home and meet with the Debtors. He requested the court continue the hearing.

The hearing on the Motion to Dismiss is continued to 1:30 p.m. on May 6, 2025.

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on March 13, 2025. By the court's calculation, 34 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is XXXXXXX.**

#### **June 4, 2025 Hearing**

The court continued the hearing to allow Debtor to cure the default. A review of the Docket on May 29, 2025 reveals nothing new has been filed in the case.

At the hearing, XXXXXXX

#### **REVIEW OF MOTION**

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

1. The debtor, Emanuel Wesley Johnson and Leniece Chante Johnson ("Debtor"), is delinquent \$4,165.00 in plan payments. Debtor will need to have paid \$6,249.00 to become current by the hearing date. Mot. 1:18-23, Docket 18.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 20.

#### **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on April 2, 2025. Response, Docket 22; Decl., Docket 23. Debtor states they have diligently made all required Chapter 13 plan payments since the commencement of their case. Response 2:2-4, Docket 22. According to Debtor, upon learning of the payment discrepancy from Trustee's Motion to Dismiss, Debtor verified with the money order issuer that

the uncredited payments were not cashed. *Id.* at 19-22. As a result, Debtor requests the court to allow a brief extension for the re-issuance process for the payments to be completed. *Id.* at 24-25.

## **DISCUSSION**

### **Delinquent**

Debtor is \$4,165.00 delinquent in plan payments, which represents multiple months of the \$2,084.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor's lack of payment appears to be a mistake in processing money orders and should be rectified quickly.

At the hearing, counsel for the Trustee reported that the Debtor is still delinquent \$4,165.00, and agreed to continue the hearing to allow Debtor to cure the default.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on June 4, 2025.

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

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

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

1. The debtor, Andrew Knieriem ("Debtor"), failed to appear and be examined at the 341 Meeting. Mot. 1:24-2:2, Docket 45.
2. Trustee and Deutsche Bank both objected to confirmation of the Debtor's original Plan, which was sustained at hearing on February 11, 2025. The Debtor has failed to file an amended Plan and set for confirmation.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 47.

## DISCUSSION

### Failed to Appear at § 341 Meeting of Creditors

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

## Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on February 11, 2025. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

|                                   |                       |                               |
|-----------------------------------|-----------------------|-------------------------------|
| 14. <a href="#">20-23172-E-13</a> | <b>SONDA CHARLTON</b> | <b>MOTION TO DISMISS CASE</b> |
| <a href="#">DPC-6</a>             | <b>Peter Macaluso</b> | <b>4-7-25 [115]</b>           |

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 7, 2025. By the court's calculation, 58 days' notice was provided. 28 days' notice is required.

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

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

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

1. The debtor, Sonda L. Charlton ("Debtor"), is delinquent \$4,050.83 in plan payments. Mot. 1:25-2:3, Docket 115.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 117.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on May 20, 2025. Dockets 119, 120. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$4,050.83 delinquent in plan payments, which represents multiple months of the \$1,836.52 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states the delinquency will be cured prior to the hearing date.

At the hearing, **XXXXXXX**.

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is XXXXXXX.**

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

1. The debtor, Allison Marie Hingst Elo ("Debtor"), is delinquent \$6,800.00 in plan payments. Mot. 1:23-27, Docket 37.
2. Debtor failed to submit proof of her Social Security number and identification to the Trustee. *Id.* at 1:28-2:4.
3. Debtor failed to provide 60 days of employer pay advices and her tax return for most recent pre-petition tax year. *Id.* at 2:6-14.
4. Debtor has filed two cases in the prior year, both which have been dismissed. *Id.* at 2:15-20.
5. There is an Amended Plan on file but no Motion to Confirm. *Id.* at 2:21-26.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 39.

## **DEBTOR'S RESPONSE**

Debtor filed a Response on May 21, 2025. Docket 51. Debtor states:

1. The specific dates of the payments were previously unknown to her. She respectfully informs the Court that payment will be made promptly and in full no later than June 4, 2025. *Id.* at 2:1-2.



2. On April 16, 2025, she filed a motion requesting an extension of the deadline to provide the required documentation; however, that motion was denied. At this time, she does not possess a copy of her Social Security card. She does have a valid United States passport available for identification purposes. *Id.* at 2:4-8.
3. Debtor is in the process of replacing her social security card. *Id.* at 2:10-20.
4. Debtor inadvertently mailed all documents to the wrong location in Los Angeles, so she is requesting time to mail these documents to the correct office. *Id.* at 2:22-27.
5. Debtor is a single mother of six children and has stage 4 breast cancer and is trying to make it work in bankruptcy. *Id.* at 3:1-9.
6. Debtor intends to file a Motion to Confirm and supporting evidence. *Id.* at 3:10-15.

## DISCUSSION

Debtor appears to be prosecuting this case in good faith, attempting to cooperate with Trustee's requests. The court does not now dismiss the case as Debtor brings these documents together.

Debtor is experiencing issues many *pro se* litigants come across, the process of bankruptcy involving many forms and required documents that feel like constant pitfalls along the way. Experienced counsel may be of benefit to assist Debtor in successfully prosecuting this case.

There is another issue in this case: Debtor may not be benefitting from the automatic stay. Debtor has filed and had dismissed two cases in the previous year (case no. 24-22985; case no. 24-25795), and Debtor has not filed a Motion to Impose the automatic stay in this case.

At the hearing, **XXXXXXX**

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

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

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

1. Creditor, Ally Bank, objected to confirmation of the Sarah Elizabeth Fowler and Austin Thomas Fowler's ("Debtor") original Plan, which was sustained at hearing on January 31, 2025. Debtor has failed to file an amended Plan and set it for confirmation. Mot. 1:22-25, Docket 29.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 31.

## **DISCUSSION**

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

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on January 31, 2025. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

17. [24-22483](#)-E-13  
[DPC-1](#)

**JOSEPH FOREMAN**  
**James Keenan**

**CONTINUED MOTION TO DISMISS  
CASE  
2-14-25 [17]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on February 14, 2025. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

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

#### **June 4, 2025 Hearing**

The court continued the hearing on the Motion as Debtor had passed away and Debtor’s counsel was attempting to find an individual who could substitute in the case. Trustee filed a Status Report on May 23, 2025. Trustee notes Debtor is delinquent \$17,503, and Debtor has not found an interested party to substitute into the case. Docket 27. A review of the Docket on June 2, 2025 reveals nothing new has been filed with the court.

At the hearing, **XXXXXXX**

#### **REVIEW OF MOTION**

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

1. The debtor, Joseph Stanley Foreman (“Debtor”), is delinquent \$7,003.00 in plan payments. Mot. 1:19, Docket 17.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 19.

## **DEBTOR’S RESPONSE**

Debtor’s attorney filed a n Opposition on April 2, 2025. Docket 23. Debtor’s attorney informs the court that Debtor has died, and Debtor is exploring substituting deceased Debtor’s wife into the case as representative. Debtor’s attorney requests a continuance.

## **DISCUSSION**

Debtor is \$7,003.00 delinquent in plan payments. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, Debtor has passed away, and Debtor’s attorney is attempting to substitute Debtor’s brother in the case. At the hearing, counsel for the debtor reported that they are also coordinating what may be necessary for probate proceedings. The Trustee did not oppose a continuance.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on June 4, 2025.

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

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

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

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

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

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is XXXXXXX.**

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

1. The debtor, Danette Rochelle Lizarraga ("Debtor"), is delinquent \$10,920.00 in plan payments. Mot. 1:25-27, Docket 49.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 51.

## **DEBTOR'S RESPONSE**

Debtor filed Declaration in opposition on May 22 2025. Docket 55. Debtor states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$10,920.00 delinquent in plan payments, which represents multiple months of the \$5,460.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, Debtor has testified she has received funds to cure the plan payment delinquency.

At the hearing, XXXXXXX.

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

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

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

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

# FINAL RULINGS

19. [23-20493-E-7](#)  
[DPC-1](#)

SANDRA JACKSON  
Mohammad Mokarram

MOTION TO DISMISS CASE  
4-16-25 [\[18\]](#)

CASE CONVERTED: 05/12/25

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 49 days' notice was provided. 28 days' notice is required.

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

**The Motion to Dismiss is denied without prejudice as moot, the Chapter 13 Case having been converted to one under Chapter 7 when Debtor filed his Notice of Conversion on May 12, 2025. Docket 28.**

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks to dismiss Sandra Marie Jackson's ("Debtor") Chapter 13 case. Debtor filed a Notice of Conversion on May 12, 2025, however, converting the case to a proceeding under Chapter 7. Dckt. 28. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor's case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on May 12, 2025. *McFadden*, 37 B.R. at 521.

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

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

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

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

20. [24-25394-E-13](#)  
[DPC-2](#)

**CLAYTON DELAUGHDER**  
**Joshua Sternberg**

**MOTION TO DISMISS CASE**  
**5-6-25 [28]**

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 6, 2025. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

**The hearing on the Motion to Dismiss is continued to 2:00 p.m. on July 1, 2025, (Specially Set Day and Time), to be heard in conjunction with the Debtor’s Motion to Confirm the Amended Plan.**

Trustee moved to dismiss the case for Debtor failing to file an Amended Plan after this court denied confirmation on February 11, 2025.

#### **FILING OF AMENDED PLAN**

Debtor filed an Amended Plan and Motion to Confirm on May 21, 2025. Dockets 36, 32. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Dockets 34, 35. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

Debtor appears to be actively prosecuting this case.

The hearing on the Motion to Dismiss is continued to 2:00 p.m. on July 1, 2025, to be heard in conjunction with the Debtor’s Motion to Confirm the Amended Plan.



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

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

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

**IT IS ORDERED** that the hearing on the Motion to Dismiss is continued to **2:00 p.m. on July 1, 2025 (Specially Set Day and Time)**, to be heard in conjunction with the Debtor’s Motion to Confirm the Amended Plan.

|                                    |                          |                                     |
|------------------------------------|--------------------------|-------------------------------------|
| 21. <a href="#">22-23197</a> -E-13 | <b>HEATHER QUIGLEY</b>   | <b>MOTION TO DISMISS CASE</b>       |
| <a href="#">DPC-1</a>              | <b>Arete Kostopoulos</b> | <b>4-16-25 <a href="#">[27]</a></b> |

**Final Ruling: No appearance at the June 4, 2025 Hearing is required.**

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, Heather Kirstine Quigley (“Debtor”), is delinquent \$2,120.01 in plan payments. Debtor will need to have paid \$3,566.01 to become current by the hearing date. Mot. 1:19-22, Docket 27.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 29.

## DISCUSSION

### Delinquent

Debtor is \$2,120.01 delinquent in plan payments, which represents multiple months of the \$723.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

22. [24-24598](#)-E-13  
[DPC](#)-4

WLODZIMIERZ LITWIN  
Peter Macaluso

CONTINUED MOTION TO DISMISS  
CASE  
3-14-25 [\[76\]](#)

**DEBTOR DISMISSED: 05/02/25**

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.  
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The case having previously been dismissed, the Motion is denied as moot without prejudice. Order, Docket 97.

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| <p><b>The Motion to Dismiss is denied as moot without prejudice, the case having been dismissed on May 2, 2025.</b></p> |
|---|

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 having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is denied as moot without prejudice, the case having been dismissed.

23. [23-24403-E-13](#)      **ERIC SILVA**      **MOTION TO DISMISS CASE**  
[DPC-2](#)      **Mary Ellen Terranella**      **4-16-25 [40]**

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. The debtor, Eric Patrick Silva (“Debtor”), is delinquent \$6,960.00 in plan payments. Debtor will need to have paid \$8,700.00 to become current by the hearing date. Mot. 1:19-22, Docket 40.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 42.

**DISCUSSION**  
**Delinquent**

Debtor is \$6,960.00 delinquent in plan payments, which represents multiple months of the \$870.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

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| 24. <a href="#">19-26304-E-13</a> | LUCIAN FREIRE         | MOTION TO DISMISS CASE       |
| <a href="#">DPC-6</a>             | Mary Ellen Terranella | 4-7-25 <a href="#">[105]</a> |

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 112), **the Motion to Dismiss the Bankruptcy Case was denied without prejudice, and the matter is removed from the calendar.**

25. [22-20510](#)-E-13  
[DPC-2](#)

ARMANDO/EMILY GONZALEZ  
Thomas Amberg

CONTINUED MOTION TO DISMISS  
CASE  
3-6-25 [69]

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an *Ex Parte* Motion to Dismiss the pending Motion on May 20, 2025, Docket 79; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Armando Ariss Gonzalez and Emily Vena Gonzalez (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

The Motion to Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 79, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

26. [25-20830](#)-E-13

EILEEN HECHT  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-8-25 [16]

**DEBTOR DISMISSED: 04/24/25**

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on April 10, 2025. The court computes that 55 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay filing fees.

**The Order to Show Cause is discharged as moot.**

The court having dismissed this bankruptcy case by prior order filed on April 24, 2025 (Docket 22), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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

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

The 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 as moot, and no sanctions are ordered.

27. [25-20234-E-13](#)

**JOHN BARNWELL**  
**Peter Macaluso**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
4-28-25 [\[89\]](#)**

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.  
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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on April 30, 2025. The court computes that 35 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on April 22, 2025.

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

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

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

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

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

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

28. [25-21337](#)-E-13      **KURT JACKSON**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **Brian Coggins**      **5-7-25 [18]**

**Final Ruling: No appearance at the June 4, 2025 Hearing is required.**

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on May 7, 2025. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed a Response requesting that the court convert the case to one under Chapter 7.

The court has determined that oral argument will not be of assistance in rendering a decision in this matter.

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| <p><b>The Motion to Dismiss is granted, and the case is converted to one under Chapter 7.</b></p> |
|---|

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

1. The debtor, Kurt C Jackson ("Debtor"), failed to appear and be examined at the 341 Meeting. Mot. 1:21-24.
2. Debtor failed to submit proof of his identification or social security number to the Trustee, prior to the hearing of the First Meeting of Creditors, required pursuant to Federal Rule of Bankruptcy Procedure 4002(b)(1)(B). Mot. 1:25-27.

3. Debtor failed to provide documents requested by the Trustee as required by the Plan. *Id.* at 2:1-5.
4. Debtor may not have filed all tax returns. *Id.* at 2:6-11.
5. The Schedule are inaccurate and are not supported by the evidence. *Id.* at 2:12-3:15.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 20.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on May 21, 2025. Dockets 27-29. Debtor states he is attempting to comply with Trustee's requests. Debtor informs the court that he has amended his Schedule C, changing the originally claimed homestead exemption of \$448,273 to \$315,000, which now leaves \$133,273 in non-exempt equity for unsecured creditors in a Chapter 7.

Debtor requests the court convert this case to one under Chapter 7. Debtor asserts that there is non-exempt equity in his residence which can be used to pay creditors' claims. This Bankruptcy Case was filed on the eve of a foreclosure sale.

## **DISCUSSION**

To stay in bankruptcy and receive a discharge, Debtor moves the court for an order converting this case to one under Chapter 7. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. *FED. R. BANKR. P. 1017(f)(3)*; *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984).

All Debtor need do to effectuate the conversion is file a Notice of Conversion with the court. Debtor need not reduce his claimed homestead exemption to convert the case.

The Debtor requesting that the court convert this Case to one under Chapter 7 as part of this Motion, the Motion is granted and the case is converted to one under Chapter 7.

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

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

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



**IT IS ORDERED** that the Motion is granted, and this Bankruptcy Case is converted to one under Chapter 7.

29. [25-21650](#)-E-13

**JUDSON HENRY**  
Judson Henry

**ORDER TO SHOW CAUSE FOR FAILURE  
TO UPDATE CONTACT INFORMATION  
IN PACER  
4-24-25 [\[15\]](#)**

**Final Ruling: No appearance at the June 4, 2025 Hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on April 24, 2025. The court computes that 41 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's counsel's failure to maintain the same e-mail address in PACER as listed on the Voluntary Petition.

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

The court's docket reflects that the default that is the subject of the Order to Show Cause appears to have been cured, Debtor filing an Amended Petition on April 21, 2025, that corrects the e-mail address. Voluntary Petition at 9, Docket 17. The issue arises in this case because although Debtor is in *pro se*, Debtor is a licensed attorney. Regardless, Debtor has provided an email address in the petition.

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

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

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

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

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 7, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, Claudine Marine Bingham (“Debtor”), is delinquent \$5,020.00 in plan payments. Mot. 1:24-27, Docket 102.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 104.

## **DISCUSSION**

### **Delinquent**

Debtor is \$5,020.00 delinquent in plan payments, which represents multiple months of the \$2,820.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

31. [24-23957](#)-E-13  
[DPC](#)-4

**PRITAM SINGH**  
**Peter Macaluso**

**MOTION TO DISMISS CASE**  
**5-7-25 [88]**

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.  
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Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 7, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

**The hearing Motion to Dismiss is continued to 2:00 p.m. on June 24, 2025 (Specially Set Day and Time) to be conducted in conjunction with the hearing on the Motion to Confirm Chapter 13 Plan.**

Debtor filed an Amended Plan and Motion to Confirm on May 20, 2025. Dockets 94, 98. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Docket 96. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

However, the Trustee has filed an Opposition to the Motion to Confirm, which includes the failure to provide business documents, the ability to make plan payments, failure to provide copies of tax returns, over-claiming of exemptions, and failing to disclose income of the non-debtor spouse. Opposition; Dckt. 106.

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

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

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

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

**IT IS ORDERED** that the hearing Motion to Dismiss is continued **to 2:00 p.m. on June 24, 2025 (Specially Set Day and Time)** to be conducted in conjunction with the hearing on the Motion to Confirm Chapter 13 Plan.

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| 32. <a href="#"><u>24-25164</u></a> -A-13<br><a href="#"><u>DPC-2</u></a> | <b>ELIZABETH ANDRADE</b><br><b>Eric Schwab</b> | <b>MOTION TO DISMISS CASE</b><br><b>5-7-25 [39]</b> |
|---|--|---|

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 7, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

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| <p><b>The Motion to Dismiss is denied without prejudice.</b></p> |
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Trustee moved to dismiss based on plan payment delinquency and no plan pending.

#### **FILING OF AMENDED PLAN**

Debtor filed an Amended Plan and Motion to Confirm on May 28, 2025. Dockets 49, 53. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Docket 52. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

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

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

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

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

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

33. [24-24166-E-13](#)  
[DPC-1](#)

**KRISTOPHER STARR**  
**Michael Hays**

**MOTION TO DISMISS CASE**  
**4-16-25 [24]**

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

**The Motion to Dismiss is denied without prejudice as moot, the case already having been dismissed.**

The Debtor having voluntarily having his case dismissed by order on May 27, 2025, Docket 29, this Motion is denied without prejudice as moot.

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

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

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

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

34. [25-20566](#)-E-13      **TYLER/NATALIE NETHAWAY**      **ORDER TO SHOW CAUSE - FAILURE**  
Thomas Amberg      **TO PAY FEES**  
5-16-25 [\[24\]](#)

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 18, 2025. The court computes that 17 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on May 12, 2025.

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

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

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

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

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

**IT IS ORDERED** that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 7, 2025. By the court’s calculation, 58 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

**The Motion to Dismiss is denied without prejudice.**

Trustee filed the Motion to Dismiss based on plan payment delinquency.

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

Debtor filed a Modified Plan and Motion to Confirm on May 16, 2025. Dockets 74, 76. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 77. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

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

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

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

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

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

**Final Ruling:** No appearance at the June 4, 2025 hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's attorney, and Chapter 13 Trustee as stated on the Certificate of Service on April 14, 2025. The court computes that 51 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's counsel's failure to maintain the same e-mail address in PACER as listed on the Voluntary Petition.

**The hearing on the Order to Show Cause is continued to August 20, 2025 at 9:00 a.m.**

Debtor's counsel, Gerald Glazer, filed an Opposition and Declaration in support on April 15, 2025. Dockets 16, 17. Mr. Glazer states the discrepancy arises because the firm's PACER email is clerk@cherryconsulting.com, but Mr. Glazer had been signing petitions with the email julius@cherrylawconsulting.com. Mr. Glazer explains his firm will be using the "clerk" email on petitions going forward. However, Mr. Glazer has not corrected the email address in this case.

The hearing on the Order to Show Cause is continued to August 20, 2025 at 9:00 a.m.

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

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

The 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 hearing on the Order to Show Cause is continued to August 20, 2025 at 9:00 a.m.



**Final Ruling:** No appearance at the June 4, 2025 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

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| <p><b>The Motion to Dismiss is denied without prejudice.</b></p> |
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Trustee moved for dismissal based on plan payment delinquency.

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

Debtor filed a Modified Plan and Motion to Confirm on May 29, 2025. Dockets 26, 29. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 28. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

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

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

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

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

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

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.  
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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 16, 2025. By the court’s calculation, 49 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, Rosalie Parayno Calaunan (“Debtor”), is delinquent \$1,988.00 in plan payments. Debtor will need to have paid \$3,976 to become current by the hearing date. Mot. 1:19-22, Docket 19.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 21.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,988 delinquent in plan payments, which represents multiple months of the \$944 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

39. [24-23586-E-13](#)  
[DPC-1](#)

**JON NEWTON**  
**Michael Reid**

**CONTINUED MOTION TO DISMISS**  
**CASE**  
**3-6-25 [\[20\]](#)**

**Final Ruling: No appearance at the June 4, 2025 Hearing is required.**  
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Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on March 6, 2025. By the court’s calculation, 41 days’ notice was provided. 28 days’ notice is required.

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

**The Motion to Dismiss is denied without prejudice.**

### **REVIEW OF MOTION**

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

1. The debtor, Jon Carter Newton (“Debtor”), is delinquent \$11,938.00 in plan payments. Debtor will need to have paid \$16,911.00 to become current by the hearing date. Mot. 1:19-22, Docket 20.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 22.

### **DEBTOR’S RESPONSE**

Debtor filed a Response and supporting Declaration on April 2, 2025. Dockets 24, 25. Debtor informs the court he has experienced some hardship along the way, including car troubles and a reduce in hours at his employment. Debtor will not be able to cure the delinquency, but Debtor prays for time as he explores curing a delinquency through a modified Plan.

## **DISCUSSION**

### **Delinquent**

Debtor is \$11,938.00 delinquent in plan payments, which represents multiple months of the \$4,973.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor has informed the court he is exploring a modified plan to cure the delinquency. As of the court's review of the Docket on April 11, 2025, no modified plan has been filed. A review of the court's files discloses that Debtor has not had a prior bankruptcy case in the Eastern District of California.

At the hearing, counsel for Debtor reported Debtor has made a \$5,000 payment and seeks to cure the delinquency through a Plan modification.

The Motion to Dismiss is conditionally granted, and the Bankruptcy Case shall be dismissed if the Debtor is not current on Plan payments under the existing Plan, or has not filed and served, and is current in plan payments of, a Modified Plan, Motion to Confirm, and Supporting Pleadings by May 20, 2025.

The hearing on the Motion to Dismiss is continued to June 4, 2025, for the court's case management if the Debtor satisfies the conditions in this Order and this Case is not dismissed.

### **June 4, 2025 Hearing**

The court continued the hearing on this Motion having conditionally granted the Motion at the prior hearing. The court's conditional order gave Debtor until May 20, 2025, which was later extended to May 27, 2025, to file a Modified Plan or to cure the delinquency under the prior Plan. Order, Docket 31; Order, Docket 34. On May 27, 2025, Debtor filed a Modified Plan and Motion to Confirm. Dockets 37, 36.

### **Plan and Motion to Confirm Filed**

Debtor has filed a Modified Plan (Dckt. 37) and Motion to Confirm (Dckt. 36) to address the defaults. From the court's preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 40) states personal knowledge testimony in support of the Motion to Confirm.

Given Debtor's active prosecution of confirmation of a Plan, the Motion is denied without prejudice.

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, David Cusick (“Trustee”), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

40. [23-24387](#)-E-13  
[DPC-2](#)

**JERRY HARDEMAN**  
Nancy Haley

**MOTION TO DISMISS CASE**  
5-7-25 [\[185\]](#)

**Final Ruling: No appearance at the June 4, 2025 Hearing is required.**

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 7, 2025. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, Jerry Glenn Hardeman (“Debtor”), is delinquent \$8,692.00 in plan payments. Mot. 1:23-25, Docket 185.
2. Debtor’s Motion to Confirm the Third Amended Plan, was denied by the Court on March 30, 2025. The Debtor has failed to file an amended Plan and set for confirmation. *Id.* at 2:3-6.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 187.

## **DISCUSSION**

### **Delinquent**

Debtor is \$8,692.00 delinquent in plan payments, which represents multiple months of the \$3,614.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on March 30, 2025. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

No Opposition has been filed to the Motion to Dismiss.

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

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

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

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

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

**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.  
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Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 2, 2025. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

1. The debtor, Andrea Nicole Moore (“Debtor”), is delinquent \$6,366.56 in plan payments. Mot. 1:25-27, Docket 82.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 84.

## DISCUSSION

### Delinquent

Debtor is \$6,366.56 delinquent in plan payments, which represents multiple months of the \$3,566.32 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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