

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

June 18, 2018 at 2:00 p.m.

1. 17-22417-A-13 KATHRYN MONDS
JPJ-1

MOTION TO
DISMISS CASE
5-21-18 [29]

Final Ruling: This motion to dismiss the case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the

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debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

2. 16-25421-A-13 ALIDA CASH MOTION TO
JPJ-3 DISMISS CASE
5-15-18 [49]

Tentative Ruling: The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

3. 16-28542-A-13 ASHLEY/ROY SCHROEDER MOTION TO
JPJ-2 DISMISS CASE
5-21-18 [41]

Tentative Ruling: The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13

debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"**Debtor's duties.** In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

4.	16-28148-A-13	ORLANDO VALENCIA AND	MOTION TO
	JPJ-2	MARIA SANCHEZ	DISMISS CASE
			6-1-18 [62]

Tentative Ruling: The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"**Debtor's duties.** In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes

the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

5. 17-21448-A-13 MICHAEL BRUNSWICK MOTION TO
JPJ-1 DISMISS CASE
5-21-18 [25]

Final Ruling: This motion to dismiss the case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"**Debtor's duties.** In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

6. 14-22555-A-13 MELANIO/ELLEN VALDELLON MOTION TO
JPJ-4 DISMISS CASE
5-11-18 [92]

Tentative Ruling: The motion will be granted and the case dismissed.

The trustee's Notice of Filed Claims was filed and served on October 15, 2014 as required by Local Bankruptcy Rule 3007-1(d). That notice advised the debtor of all claims filed by creditors. Given the claims filed and their amounts, it will take 73 months to pay the dividends promised by the confirmed plan. The confirmed plan specifies that it must be completed within 60 months, the maximum plan duration permitted by 11 U.S.C. § 1322(d).

The debtor failed to reconcile the plan with the claims, either by filing and serving a motion to modify the plan to provide for all claims within the maximum duration permitted by section 1322(d), or by objecting to claims. This is required by Local Bankruptcy Rule 3007-1(d)(5) which provides: "If the Notice of Filed Claims includes allowed claims that are not provided for in the chapter 13 plan, or that will prevent the chapter 13 plan from being completed timely, the debtor shall file a motion to modify the chapter 13 plan, along with any valuation and lien avoidance motions not previously filed, in order to reconcile the chapter 13 plan and the filed claims with the requirements of the Bankruptcy Code. These motions shall be filed and served no later than ninety (90) days after service by the trustee of the Notice of Filed Claims and set for hearing by the debtor on the earliest available court date." See In re Kincaid, 316 B.R. 735 (Bankr. E.D. Cal. 2004).

The time to modify the plan under Local Bankruptcy Rule 3007-1(d)(5) has expired. Further, this problem was brought to the attention of counsel for the debtor by the trustee on March 8, 2018 but nothing was done. This material breach of the plan is cause for dismissal. See 11 U.S.C. § 1307(c)(6).

7. 17-25368-A-13 ISRAEL RIZO MOTION TO
JPJ-2 DISMISS CASE
6-1-18 [31]

Tentative Ruling: The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

8.	17-25273-A-13 FRANK VALENZUELA JPJ-3	MOTION TO DISMISS CASE 6-1-18 [42]
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Tentative Ruling: The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

9. 17-21890-A-13 KELLY SEGURA MOTION TO
JPJ-2 DISMISS CASE
5-21-18 [24]

Final Ruling: This motion to dismiss the case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims

against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).

10. 15-28294-A-13 CHARLES HOWSON MOTION TO
JPJ-3 DISMISS CASE
5-15-18 [60]

Final Ruling: This motion to dismiss the case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted and the case dismissed.

Local Bankruptcy Rule 3015-1(b)(5) provides in relevant part:

"Chapter 13 Debtor's Duties. In addition to the duties imposed on a chapter 13 debtor by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and elsewhere in these Local Bankruptcy Rules, the following duties are imposed on chapter 13 debtors:

. . .

(5) Periodic Reports. Upon the trustee's request, the debtor shall provide the trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish the trustee with periodic financial information regarding the debtor's business or financial affairs."

This rule is incorporated into the debtor's confirmed plan at section 5.02 which provides in relevant part:

"Debtor's duties. In addition to the duties imposed upon Debtor by the Bankruptcy Code and Rules, and the Local Bankruptcy Rules, this plan imposes the following duties on Debtor: . . . **Periodic reports.** Upon Trustee's request, Debtor shall provide Trustee with a copy of any tax return, W-2 form, and 1099 form filed or received while the case is pending, and furnish Trustee with quarterly financial information regarding Debtor's business or financial affairs. . . ."

In breach of the duty imposed by the court's local rule and the debtor's confirmed plan, and in violation of the debtor's duty to cooperate with the trustee, the debtor has failed to provide the trustee with a copy of the debtor's 2017 tax returns, bank records, and payment advices, as well as information concerning inheritances, life insurance benefits, lawsuits, claims against third persons, judgments, and lottery and gambling winnings.

This material default of the plan and unreasonable delay by the debtor is cause for dismissal. See 11 U.S.C. § 1307(c)(1) and (6).