

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: June 27, 2023

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

June 27, 2023 at 1:00 p.m.

1. [23-20161](#)-B-13 MACARIO LOPEZ MOTION TO DISMISS CASE
[RDG](#)-2 Michael T. Reid 6-13-23 [[39](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to conditionally grant the motion to dismiss case and continue the matter to July 11, 2023, at 1:00 p.m.

Debtor failed to appear at the first meeting of creditors held on May 17, 2023, and two continued meetings of creditors held May 31, 2023, and June 14, 2023. Debtor's attorney Michael T. Reid had also informed the Chapter 13 Trustee's office that the Debtor would not appear at the June 14, 2023, meeting of creditors since he had decided to abandon his case. The Debtor's failure to perform has caused an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, June 30, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 11, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on July 11, 2023, at 1:00 p.m.

June 27, 2023 at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to conditionally grant the motion to dismiss case and continue the matter to July 11, 2023, at 1:00 p.m.

Debtors have failed to turn over all tax refunds to the Chapter 13 Trustee. This is in violation of the order confirming plan dated February 11, 2021. The Debtor's failure to perform has caused an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, June 30, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 11, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on July 11, 2023, at 1:00 p.m.

If a timely opposition or response is filed resulting in this case not being dismissed, the Debtors are ORDERED to comply with the terms of their confirmed Chapter 13 plan and the confirmation order and turn over all tax refunds received under their 2021 and 2022 federal and state tax returns by no later than July 11, 2023.

FURTHER ORDERED that independent of the Chapter 13 Trustee's motion to dismiss and this ruling, this Chapter 13 case may be dismissed on the Chapter 13 Trustee's *ex parte* application if the Debtors fail or refuse to timely comply with the foregoing tax refund turnover order.

FURTHER ORDERED that dismissal of this case resulting from either the granting of the Chapter 13 Trustee's current motion to dismiss or failure to comply with the foregoing tax refund turnover order will be under 11 U.S.C. § 109(g)(1), which means the Debtors will be barred from refiling any single or joint bankruptcy case for a period of 180-days following entry of the dismissal order.

FURTHER ORDERED that the Debtors' attorney shall show cause, in writing filed by July 11, 2023, why she should not be sanctioned for allowing her clients to violate the confirmation order and disregard the terms of the confirmed Chapter 13 plan by not turning over tax refunds.

3. [23-21174](#)-B-13 KEITH BUREN
Eric L. Seyvertsen

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-17-23 [[19](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on May 12, 2023. While the delinquent installment was paid on May 19, 2023¹, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if the third and fourth installments are not received by their due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

¹The Debtor has separately paid the second installment of \$78.00 on June 8, 2023.

4. [18-24845](#)-B-13 VICTOR HERRADA
[PGM](#)-5 Peter G. Macaluso

CONTINUED MOTION TO MODIFY PLAN
3-6-23 [[122](#)]

Final Ruling

This matter was continued from June 20, 2023, to allow the Debtor to file a supplemental declaration as to the status of its application by Wednesday, June 21, 2023, at 5:00 p.m. and for the Trustee to file a supplemental response by Friday, June 23, 2023, at 5:00 p.m. The Debtor filed a timely declaration and exhibit, and a response was filed by the Trustee.

Although the Debtor provided evidence that the California Mortgage Relief Program distributed funds to the mortgage servicer, Select Portfolio Servicing Inc. has not verified that funds have been applied to the loan. Until Select Portfolio Servicing Inc. files an amended proof of claim or the debtor successfully objects to the claim filed by Select Portfolio Servicing Inc., Debtor's plan is not feasible.

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

The motion is ORDERED DENIED for reasons stated in the minutes.

The court will issue an order.

5. [21-20499](#)-B-13 SUSAN MAHLER
[WLG](#)-15 Nicholas Wajda

CONTINUED MOTION TO INCUR DEBT
6-5-23 [[146](#)]

Final Ruling

This matter was continued from June 20, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 23, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 150, granting the motion, shall become the court's final decision. The continued hearing on June 27, 2023, at 1:00 p.m. is vacated.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.