

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

July 9, 2025 at 9:00 a.m.

1. 20-25372 -E-13	JEWEL BURGESS	MOTION TO DISMISS CASE
DPC-1	Gabriel Liberman	6-3-25 [25]

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 June 3, 2025. By the court's calculation, 36 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).

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, Jewel Renee Burgess ("Debtor"), is in month 55 of her Plan; however, Trustee calculates the Plan will not complete until month 117 based on unsecured claims being filed were greater than the amount anticipated. Mot. 1:24-2:24, Docket 25.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 27.

DISCUSSION

Overextended Plan

The Plan will take 117 months to complete by Trustee's calculations. 11 U.S.C. § 1322(d)(1)(C) states, "the plan may not provide for payments over a period that is longer than 5 years." Failure to comply with the statutory length provided for a Plan is cause to dismiss the case.

This is the sole basis for Trustee's Motion to Dismiss. The confirmed Plan calls for a 100% dividend to unsecured creditors in the amount of \$35,416.72. Plan, Docket 4. Unsecured claims were filed in the case in the total amount of \$74,389.30. It may be Debtor simply modifies the plan to reduce the percentage to unsecured creditors and remain in bankruptcy. Debtor is current in plan payments.

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 **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 January 17, 2025. By the court's calculation, 47 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 ~~XXXXXXX~~.

July 9, 2025 Hearing

The court continued the hearing and ordered Debtors to appear in person to impress upon them the fact that they only have one plan payment remaining to complete the Plan payments and reap the benefits of a confirmed and completed Chapter 13 Plan. Due to a clerical error, the court ordered the wrong Debtors to appear. Order, Docket 128. This error resulted from the court mistakenly including text from a different case in the body of the Civil Minutes filed at Docket 127.

A review of the Docket on July 1, 2025 reveals nothing new has been filed in the case.

If the Debtors do not appear at the hearing, due to the court's clerical error, it will be necessary to again continue the hearing.

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, Gerald William Miller and Barbara Miller (“Debtor”), is delinquent \$1,833.63 in plan payments, which is the final amount to complete the Plan. Mot. 1:19-22, Docket 109.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 111.

DEBTOR’S RESPONSE

Debtor filed a Response on February 11, 2025. Docket 115. Debtor states there was a misunderstanding as the final amount due to complete the Plan, and Debtor requests time to cure the delinquency and complete the Plan.

The Chapter 13 Trustee requested a continuance to the April 16 dismissal calendar on February 11, 2025. Docket 113.

DISCUSSION

Delinquent

Debtor is delinquent \$1,833.63 in plan payments, which is the final amount to complete the Plan. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor is in the process of curing the delinquency and the Parties have agreed to a continuance. The hearing on the Motion to Dismiss is continued to April 16, 2025.

April 16, 2025 Hearing

The court continued the hearing on the Motion as the Parties reported Debtor was in the process of curing the default. As of the court’s review of the Docket on April 9, 2025, nothing new has been filed with the court.

At the hearing, counsel for the Trustee reported that there is still a \$1,000 delinquency. As addressed at the hearing, based on the facts and circumstances, the Trustee did not oppose a continuance of the hearing.

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

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, counsel for the Trustee says that they have not heard anything from the Debtors. The Trustee notes that the Debtors are only \$1,000 in payments to complete the Plan.

The court continues the hearing to 9:00 a.m. on July 9, 2025.

The court orders both Debtors to appear at the continued hearing in person, No Telephonic Appearance for the forgoing persons ordered to appear.

The court has continued the hearing and orders the Debtors to appear to insure that they understand that after five years under a Chapter 13 Plan they have one final payment to make to reap all of the benefits of the Plan and obtain their discharges. Debtors are now in pro se, their counsel having ceased practicing law, and may well not appreciate what they are about to lose after five years of making plan payments.

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. [23-21853-E-13](#)
[DPC-1](#)

ANDRE SHAVERS
Chad Johnson

CONTINUED MOTION TO DISMISS
CASE
4-16-25 [71]

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 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.

July 9, 2025 Hearing

The court continued the hearing on this Motion for administration purposes, having conditionally granted the Motion at the prior hearing unless Debtor is current on all plan payments by July 3, 2025. A review of the Docket on June 30, 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, 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.

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 3, 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 June 3, 2025. By the court's calculation, 36 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.

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

1. The debtor, Harish Chandra ("Debtor"), is delinquent \$516.10 in plan payments. Mot. 1:25, Docket 30.
2. The Plan is overextended in its 70 month and will take another ten months to complete. *Id.* at 2:3-6.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 32.

DISCUSSION

Delinquent

Debtor is \$516.10 delinquent in plan payments, which represents less than a month of the \$4,478.79 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).

This is an old case, being in its 70 month. Debtor did not file Opposition, but Debtor is not extremely delinquent. 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**.

5. [22-21817-E-13](#)
[DPC-6](#)

GARY SPARKS
Mary Ellen Terranella

CONTINUED MOTION TO DISMISS
CASE
4-16-25 [110]

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 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 denied without prejudice.
--

July 9, 2025 Hearing

The court continued the hearing on this Motion for administration purposes, having conditionally granted the Motion at the prior hearing unless Debtor is current on all plan payments by July 3, 2025. A review of the Docket on June 30, 2025 reveals nothing new has been filed in the case.

On July 2, 2025, the Debtor filed a Status Report concerning the conditional order of dismissal. Dckt. 121. The Report states (the court reformatting the paragraph to show each stated payment on a separate line):

Debtor made a payment in the amount of \$5,595.00 through TFS on June 24, 2025, which cleared TFS on June 26, 2025 and was received by the Trustee on June 27, 2025. This was for the April 2025 plan payment.

Debtor made a payment in the amount of \$5,595.00 through TFS on June 25, 2025, which cleared TFS on June 27, 2025 and was received by the Trustee on June 30, 2025. This was for the May 2025 plan payment.

Debtor made a payment in the amount of \$5,595.00 through TFS on June 27, 2025, which cleared TFS on July 1, 2025 and was received by the Trustee on July 2, 2025. This was for the June 2025 plan payment.

Debtor believes these payments bring him current under the terms of his plan. Debtor believes the Trustee can confirm receipt of the aforementioned payments at the continued hearing on July 9, 2025.

Report, p. 2:9-18; Dckt. 121.

At the hearing, **XXXXXXX**

~~—————The Debtor having cured the defaults timely, the Motion 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, 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, counsel for the Trustee reported that no payments have been made in May 2025, and the arrearage has grown to over \$11,190 (two plan payments).

At the hearing, counsel for the Debtor requested a continuance, stating that Debtor has the funds to cure the default.

The Motion to Dismiss is conditionally granted, with the bankruptcy to be dismissed if Debtor is not current on all plan payments as of July 3, 2025.

The hearing is continued to 9:00 a.m. on April 15, 2025, for the court case management purposes.

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.~~

6.	<u>25-20415-E-13</u>	TIMOTHY/SARA GUINN	MOTION TO DISMISS CASE
	<u>DPC-2</u>	Matthew Grech	6-5-25 [21]

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 June 5, 2025. By the court’s calculation, 34 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.
--

The Chapter 13 Trustee, David Cusick (“Trustee”), moved to dismiss the case based on Debtor failing to file an Amended Plan after the court denied confirmation of Debtor’s previous Plan on April 8, 2025.

FILING OF AMENDED PLAN

Debtor filed an Amended Plan and Motion to Confirm on June 9, 2025. Docket 25. However, the Plan has been improperly filed as an Exhibit and not as a stand alone document. This is a violation of Local Bankruptcy Rule 9004-2(c).

The Amended Plan provides for a 16% dividend to be paid to creditors holding general unsecured claims. Amd. Plan, ¶ 3.14. The Amended Plan states that the general unsecured claims total approximately (\$16,700).

The (\$16,700) number in the Amended Plan is inconsistent with the Debtor listing (\$93,294) of general unsecured claims on Schedule E/F. Dckt. 1 at 23-33. It appears that the (\$16,700) number is little less than 16% of (\$93,294). From a review of the Claims Register for this Case, it appears that the general unsecured claims asserted are approximately(\$113,000.)

At the hearing, **XXXXXXX**

~~The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Docket 37. 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.~~

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 June 3, 2025. By the court's calculation, 36 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). 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, Joe Orlando Matthews ("Debtor"), is in month 56 of the Plan. However, it appears the Plan is overextended and will run 77 to complete. Debtor is current in plan payments. Mot. 1:25-2:4.

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

DISCUSSION

Overextended Plan

The Plan will take 77 months to complete. 11 U.S.C. § 1322(d)(1)(C) states, "the plan may not provide for payments over a period that is longer than 5 years." Failure to comply with the statutory length provided for a Plan is cause to dismiss the case. However, Debtor is not delinquent in plan payments, and this is an older case, being in month 56 of the Plan.

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.

8. [25-20819-E-13](#) **JEFFREY VAN DEN OEVER** **MOTION TO DISMISS CASE**
[DPC-2](#) **Pro Se** **6-23-25 [44]**

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.

Below is the court’s tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) on June 23, 2025. By the court’s calculation, 16 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing -----.

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, Jeffrey James Van Den Oever, Sr. (“Debtor”), failed to commence making plan payments in the case. Plan payments were first due on March 25, 2025, and then on the 25th of each month after. Mot. 1:27-2:8, Docket 44.

2. Trustee filed an Objection to Confirmation which was sustained at the hearing on May 6, 2025. The Debtor has failed to file an amended plan and set a hearing for confirmation of the amended Plan. *Id.* at 2:9-13.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 46.

DISCUSSION

Failed to Commence Plan Payments

Debtor did not commence making plan payments and is delinquent in plan payments. Before the hearing, another plan payment will be due. 11 U.S.C. § 1307(c)(4) permits the dismissal or conversion of the case for failure to commence plan payments. Debtor did not present any opposition to the Motion.

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 25, 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.

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 9, 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).

<p>The Motion to Dismiss is denied without prejudice.</p>
--

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

1. The debtor, Lea Ann Chase ("Debtor"), is delinquent \$3,940.47 in plan payments. Debtor will need to have paid \$11,781.61 to become current by the hearing date. Mot. 1:19-22, Docket 58.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 60.

DEBTOR'S RESPONSE

Debtor filed a Response on June 25, 2025. Docket 62. Debtor states the delinquency has been cured and the Plan is now complete. However, Debtor submits no evidence in support.

DISCUSSION

Delinquent

Debtor is \$3,940.47 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 she has cured the delinquency and is now current.

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 denied without prejudice.

10. [25-20521](#)-E-13
[DPC-1](#)

RUSSEL SAGE
Mark Shmorgon

MOTION TO DISMISS CASE
5-9-25 [\[35\]](#)

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 9, 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). 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, Russel Sage (“Debtor”), is delinquent \$3,700.00 in plan payments. Debtor will need to have paid \$7,400.00 to become current by the hearing date. Mot. 1:19-22, Docket 35.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 37.

DISCUSSION

Delinquent

Debtor is \$3,700.00 delinquent in plan payments, which represents multiple months of the \$1,850.00 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.

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 27, 2025. By the court’s calculation, 43 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.

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

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

1. The debtor, Peggy Caryn Somkopulos (“Debtor”), is delinquent \$8,000.00 in plan payments. Mot. 1:25-2:2, Docket 101.
2. Trustee shows the plan is in the 36th month with a projected plan length well past 60 months. *Id.* at 2:3-4.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 103.

DISCUSSION

Delinquent

Debtor is \$8,000.00 delinquent in plan payments, which represents multiple months of the \$4,000.00 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).

Overextended Plan

The Plan will take more than 60 months to complete. 11 U.S.C. § 1322(d)(1)(C) states, “the plan may not provide for payments over a period that is longer than 5 years.” Failure to comply with the statutory length provided for a Plan is cause dismiss the case.

Ensminger Provision

The Confirmed Plan in this Case includes the nonstandard “Ensminger Provision” by which the Debtor will make an adequate protection payment to a creditor with a secured claim (usually when the residence is the collateral) while the Debtor diligently pursues a loan modification. The Ensminger Provision also includes protections for the creditor, allowing it to seek relief from the stay if the Debtor is not diligently seeking a loan modification or other grounds. Plan, ¶¶ 7.02.1 - 7.02.6; Dckt. 73. The monthly adequate protection payment being made is \$3,425.00. *Id.*; ¶ 7.02.2.

The court confirmed the Chapter 13 Plan on January 26, 2023. Order; Dckt. 95.

A review of the Docket shows no motion having been filed by the Debtor for approval of a loan modification (it being in the nature of Debtor obtaining post-petition secured credit).

On March 10, 2025, a Notice of Mortgage Payment Change was filed for the creditor with the Secured Claim, with the monthly payment amount (including insurance and taxes) being reduced by (\$327.50) a month to \$6,615.90. March 10, 2025 Docket Entry.

It is curious that with an adequate protection payment of “only” \$3,425.00 being made, but the mortgage payment being (\$6,943.40) a month prior to the March 10, 2025 Notice of Mortgage Payment Change, why this case has sat idle for more than two years and no loan modification or plan modification sought.

This causes the court pause, and to wonder whether payments that are not provided for in the Confirmed Chapter 13 Plan have been improperly been made. Under Debtor’s Confirmed Chapter 13 Plan the Debtor is “so strapped for cash” that she have to provide for a 0% dividend for creditors holding general unsecured claims. Plan, ¶ 3.14; Dckt. 73.

If such payments were made from monies that the Debtor had control over, such monies may well be property of the Bankruptcy Estate and may need to be recovered for the benefit if creditors. Alternatively, if the Debtor has been obtaining post-petition credit, then such credit is invalid, the loans are not legal, and that would have to be addressed. If the Debtor has been receiving substantial gifts from people, that can be documented by the appropriate gift tax returns.

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.~~

12. [25-20122-E-13](#)
[DPC-1](#)

WILLIAM SPAULDING
Michael Hays

MOTION TO DISMISS CASE
6-9-25 [29]

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 June 9, 2025. By the court’s calculation, 30 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, William Harrison Spaulding (“Debtor”), is delinquent \$2,228.00 in plan payments. Mot. 1:25-2:2, Docket 29.

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

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2025. Dockets 33, 34. Debtor states the delinquency will be cured by the hearing date.

DISCUSSION

Delinquent

Debtor is \$2,228.00 delinquent in plan payments, which represents one month of the 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 asserts the delinquency is being 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**.

13. [21-21036-E-13](#)
[DPC-5](#)

JEFFREY/YELENA MAYHEW
Peter Macaluso

MOTION TO DISMISS CASE
5-14-25 [160]

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 14, 2025. By the court’s calculation, 56 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, Jeffrey Scott Mayhew and Yelena Mikhaylovna Mayhew (“Debtor”), is delinquent \$5,475.00 in plan payments. Debtor will need to have paid \$16,552.14 to become current by the hearing date. Mot. 1:19-22, Docket 160.

Trustee did not submit a Declaration in support of the Motion. At the hearing, **XXXXXXX**

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2025. Dockets 163, 164. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$5,475.00 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 asserts they will cure 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**.

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:

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 June 25, 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: \$79 due on June 18, 2025.

<p>The Order to Show Cause is sustained, and the case is dismissed.</p>
--

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: \$79.

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.

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 June 5, 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).

<p>The Motion to Dismiss is denied without prejudice.</p>
--

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

1. The debtor, Harry Michael Chaffee ("Debtor"), is appearing in *pro se*. It is not clear Debtor has served all interested parties the Plan or Motion to Confirm.
2. Debtor has not filed 11 U.S.C. § 521 documents such as a tax transcript. *Id.* at 2:5-12.
3. The Petition and Schedules contain inaccurate or incomplete information. *Id.* at 3:1-4:9.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 38.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on June 24, 2025. Dockets 49, 50. Debtor acknowledges the mistakes with the case but informs the court on June 9, 2025, Mr. Macaluso substituted in as counsel for Debtor. Debtor requests more time to have an Amended Plan on file and assures the court Trustee has now received all 11 U.S.C. § 521 documents.

DISCUSSION

Debtor's struggles in the case included procedural issues, such as serving proper parties, and substantive issues, such as failing to properly disclose or describe assets in the Schedules. However, Mr. Macaluso recently substituted in as counsel and assures the court the errors will be rectified. On June 24, 2025, Debtor filed Amended Schedules and other required documents. Dockets 54-61. Debtor now having employed competent counsel and the case being diligently prosecuted, 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.

16. 24-24263-E-13 DPC-1	EMANUEL/LENIECE JOHNSON Gary Fraley	CONTINUED MOTION TO DISMISS CASE 3-13-25 [18]
--	--	--

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.

July 9, 2025 Hearing

The court continued the hearing because Debtor argued all payments were made and the case is current, and Trustee argued there was a delinquency on file in the amount of \$4,357.00. The court continued

the hearing to allow the Parties to address this apparent discrepancy. A review of the Docket on July 1, 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, 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.

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, counsel for the Trustee reported that a payment of \$3,980 in payments in May, however there are still two payments in default, which total \$4,357.00.

Counsel for Debtor reported that he believed all payments had been made, verifying online. The Trustee agreed to continue the hearing to allow the Parties to address this apparent discrepancy.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on July 9, 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**.

17. 25-21564-E-13	MICHAEL WARD	MOTION TO DISMISS CASE
DPC-1	Scott Shumaker	6-5-25 [24]

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 June 5, 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 granted and the Bankruptcy case is dismissed.
--

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

1. The debtor, Michael Ward (“Debtor”), filed a Chapter 13 Plan on April 30, 2025. The Debtor has failed to file a Motion to Confirm the Plan and set a hearing confirmation of the Plan. Mot. 1:24-2:2, Docket 24.

2. Debtor failed to provide Trustee with 11 U.S.C. § 521 documents, including pay advices and tax returns. *Id.* at 2:4-14.
3. Debtor's proposed Plan does not work mathematically. According to the Trustee's calculations the Plan will complete in approximately 169 months. *Id.* at 2:15-27.
4. Debtor indicated he has expenses for alimony and child support payments in the amount of \$105.00 per month, but Debtor has not filed the Domestic support Obligation Checklist pursuant to Local Bankruptcy Rule 3015-1(c)(2). *Id.* at 3:2-15.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 26.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2025. Dockets 29-30. Debtor states the required tax returns will be filed shortly, and counsel for Debtor states that he will be filing an Amended Plan prior to the hearing on this Motion.

DISCUSSION

Never Noticed Initial Plan

Debtor did not properly serve the Plan on all interested parties and has yet to file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore, Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Pay Advices

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Overextended Plan

The Plan would take 169 months to complete by Trustee's calculations. 11 U.S.C. § 1322(d)(1)(C) states, "the plan may not provide for payments over a period that is longer than 5 years." Failure to comply with the statutory length provided for a Plan is cause to dismiss the case.

Domestic Support Obligation

Debtor has indicated he has domestic support obligations. Therefore, Debtor must file with the court EDC.003-088, Domestic Support Obligation Checklist. Debtor has not filed this document with the court.

Debtor states only tax returns will be filed and says nothing of the missing pay advices. Debtor states an amended plan will be on file prior to the hearing on this Motion. A review of the Docket on July 1, 2025 reveals nothing new has been filed with the court.

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 Bankruptcy 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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

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 June 7, 2025. The court computes that 32 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: \$34 due on May 22, 2025.

<p>The Order to Show Cause is sustained, and the case is dismissed.</p>
--

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: \$34.

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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

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 June 20, 2025. The court computes that 19 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 June 13, 2025.

<p>The Order to Show Cause is sustained, and the case is dismissed.</p>
--

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: \$79.

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.

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 23, 2025. By the court's calculation, 47 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss or Convert 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 or Convert is xxxxxxx.

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

1. The debtor, Anne Marie Weber ("Debtor"), is engaging in unreasonable delay that is prejudicial to creditors. Trustee, and Toyota Motor Credit, both objected to confirmation of the Debtor's original Plan, and both objections were sustained at the hearing on May 6, 2025, (DN 38 & 39). The Debtor has failed to file an amended Plan and set it for confirmation. Mot. 1:26-2:2, Docket 40.
2. Trustee has not received business documents he has requested. *Id.* at 2:3-24.
3. Schedule J shows the Debtor budgets \$0.00 for utilities specifically water, sewer, garbage, cell phone, and internet services, which is not realistic. *Id.* at 2:25-3:5.
 - a. On May 8, 2025, Debtor filed an Amended Schedule I and J and has scheduled \$325 for utilities. Am. Schedule J at 4, Docket 35.
4. **Trustee recommends conversion as it appears there is \$1,139,015 in non-exempt equity in assets in the case.** *Id.* at 3:6-11.

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

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on June 26, 2025. Dockets 46, 47. Debtor states:

1. An Amended plan has been prepared and it will be set it for hearing on August 26, 2025. Resp. 1:20-21.
2. Debtor has provided the required business documents, which were delayed due to the nature of her business. *Id.* at 1:22-2:4.
3. Almost all of the debt is secured, so conversion would only benefit secured creditors. *Id.* at 2:7-8.

DISCUSSION

Debtor has responded to Trustee's areas of concern. Debtor states the following business documents have been sent to the Trustee:

- A. Questionnaire,
- B. Two years of tax returns,
- C. Six months of profit and loss statements,
- D. Six months of bank account statements, and
- E. Proof of license and insurance or written statement that no such documentation exists.

Moreover, Debtor states a Plan has been prepared and will be filed shortly, ameliorating another of Trustee's concerns.

On July 1, 2025, an Amended Chapter 13 Plan was filed. Dckt. 52. The court summarizes the basic terms of the Amended Plan as follows:

- A. The Plan shall be funded by the Debtor:
 1. \$5,500 a month for months 1-4 of the Plan, and
 2. \$6,000 a month for months 5-60 of the Plan.Amd. Plan, Section 7 Nonstandard Provisions, § 2.01; Dckt. 52.
- B. The Secured Claim of Wilmington Savings Fund Society ("WSFS"), shall be provided for with monthly adequate protection payments of \$2,500 until a consensual loan modification or relief from the automatic stay. (An Ensminger Provisions.) *Id.*; ¶ 7.02.1 -7.02.5.

- C. Class 2 secured claim payments are provided for, totaling \$2,795.65 month. *Id.*; Plan, ¶ 3.08.
- D. A 100% dividend for creditors holding general unsecured claims.

From the court’s preliminary review, it appears that the Motion to Confirm (Dckt. 49) generally, in a summary way states grounds with particularity upon which relief is based.

Unfortunately, the Debtor’s Declaration provides the Debtor’s personal conclusions of law that Debtor seeks to state to the court. This includes:

- 5. I believe that the proposed 1st Amended Chapter 13 Plan, filed herewith, complies with all applicable laws and was filed in good faith. Unsecured creditors will receive at least what they would have received in a Chapter 7 liquidation.

Dec., ¶ 5; Dckt. 51. There is nothing in the Schedules to indicate how the Debtor has a knowledge of “all applicable laws” and the basis for stating her legal conclusions that the Plan “was filed in good faith.”

Given that this court for 15 years has held that providing the court with mere conclusions of law and a person’s finding of fact, as opposed to providing actual personal knowledge testimony is not sufficient evidence. Additionally, it puts into question all other information and statements made by the person under penalty of perjury whether they were based on actual knowledge, or merely signed because “If I Say This We Win!”

On May 8, 2025, Debtor filed Amended Schedules I and J. Dckt. 35. On Amended Schedule I Debtor states under penalty that she is employed. *Id.*; Sch. I, ¶ 1. However no employer is listed and the income from the employment is stated to be \$0.00. *Id.*

However, on Amended Schedule I Debtor states that she has Net Income from rental property or operating a business of \$8,885.00 a month. *Id.*; ¶ 8. Unfortunately, Debtor has not included with Amended Schedule I the required statement showing the gross receipts , ordinary and necessary business expenses, and how the total monthly Net Income is computed. *Id.* Debtor did not attach the requirement statement showing gross receipts, expenses, and computation of monthly Net Income to the Original Schedule I filed in this Case. Dckt. 1 at 31 *et seq.*

On Amended Schedule J Debtor lists having monthly expenses of (\$1,475) to be paid outside of the Plan. Dckt. 35 at 3-4. Though the proposed Amended Plan provides for making payments on the debt secured by Debtor’s residence (a \$1MM property on Schedule A/B) at Kings Beach, California, a review of Amended Schedule J causes the following questions to arise:

- A. Debtor’s Expenses for Repairs and Maintenance.....\$0.00
 - 1. It is unclear how a property located on Lake Tahoe, California, can have no repair or maintenance expenses through the snowy winters and warm summers.
- B. Electricity, Heat, Natural Gas.....(\$200)

- C. Food and Housekeeping Supplies.....(\$500)
1. Assuming (\$75) a month for house keeping supplies, that leaves (\$425) a month for food.
 - a. In a 30 day month, there is \$4.72 per meal. Such amount appears to be unrealistically low for the Debtor to survive on for the next 5 years.
- D. Clothing, Laundry, and Dry Cleaning.....(\$25)
1. It appears grossly unrealistic that over the next five years Debtor will spend only \$300 a year on clothing.
- E. Medical and Dental Expenses.....(\$25)
1. It appears grossly unrealistic to state that Debtor would have only \$300 a year in over the counter medical expenses and co-payments over the next five years.
- F. Insurance
1. Car insurance.....\$0.00
 2. Health Insurance.....\$0.00
- G. Gas, Maintenance, Registration for Vehicles.....\$500
1. On Schedule A/B Debtor lists owning a 2019 Toyota Tundra (80,000 miles), 2001 Chevy Truck (350,000 miles) and a 2004 Harley Fatboy (10,000 miles).
 2. It appears highly questionable that fuel, maintenance, and registration expenses for the vehicles averages only \$500 a month.
 3. According to Schedule J, all of the vehicles are uninsured.
- H. Taxes.....\$0.00
1. No State or Federal Taxes are paid by Debtor. No Social Security, Medicare, or Unemployment Taxes are paid by Debtor.
 - a. No basis has been show that Debtor is exempt from State and Federal Taxes.

On Schedule A/B Debtor lists having 100% ownership interest of the following properties:

- A. Bend Avenue Property.....\$1,100,000 Value
- B. N. Lake Blvd Property.....\$ 587,000 Value

- C. Speckled Ave Property.....\$ 286,000 Value
- D. Jupiter (Lot) Property.....\$ 100,000 Value

Dckt. 1 at 10-11. No provision is made for the payment of any expenses, care, or maintenance of any of these Properties.

Also, no provision is made for payment of current property taxes on the above properties, with the exception of the Bend Avenue Property for which the tax payment may be in the monthly mortgage payment.

In the Amended Plan, provision is made for the Mortgage Claim secured by the Bend Avenue Property. Provision in Class 2 is made for payment of the delinquent property tax claims for the N. Lake Blvd, the Speckled Avenue, and the Jupiter Properties. Plan, ¶ 3.08; Dckt. 52. However, as noted above, no provision is made for paying the future property taxes for these three properties on Schedule J.

On the Petition, Debtor states that she is a sole proprietor and operates her business in Kings Beach, California. Petition, ¶ 12; Dckt. 1. On the Statement of Financial Affairs, Debtor lists her Gross income from operating her business to have averaged \$4,177 a month, and for 2025 to have averaged \$50 a months. Stmt Fin Affairs, ¶ 4; Dckt. 1. Debtor also states having Gross rental income of \$3,133 a month in 2024, and \$3,133 a month in the first three months of 2025.

The Gross income stated by Debtor appears to be inconsistent with the monthly Net Income shown on Amended Schedule I.

Additionally, on her Statement of Currently Monthly Income, Debtor states that in the six full months before filing bankruptcy on March 11, 2025, Debtor's Gross business income was \$3,000 a month and that she had \$0.00 in ordinary and necessary business expenses during that six month period. Stmt Current Monthly Income, Part 1; Dckt. 1.

Debtor then states then having \$4,700 a month in Gross rental income in the six months prior to filing bankruptcy, but having \$0.00 in any expenses relating to the rental property. It is unclear how Debtor can make these statements under penalty of perjury.

On Schedule A/B the Debtor makes some statements under penalty of perjury that appear highly questionable:

- A. Electronics.....None
 - 1. Debtor states that she has no cell phone, no TV, no radio, no streaming device, no laptop, no computer, and no other electronic devices.
- B. Equipment for Sports or Hobby.....None
 - 1. Debtor, though living on Lake Tahoe has no sporting equipment, no ski equipment, nothing for the beach, or other outdoor or indoor activities.

C. Clothing.....None

1. It is unclear how Debtor has no clothing, no shoes, no coats, or other necessary clothing to function in society and business.

D. Jewelry.....None

1. Again, it is unclear how Debtor has no rings, necklaces, watches, pins, or other jewelry.

Sch. A/B; Dckt. 1 at 13-14.

Debtor lists having a Sole Proprietorship, Pistol Annie's, which includes inventory, equipment and horse trailers, but none of such assets owned by Debtor are listed on Schedule A/B. It appears that Debtor may be treating her sole proprietorship as a separate legal entity, rather than her choosing to operate a business under that fictitious name.

Debtor also states that she has no retirement or pension accounts, no licenses (such as a business licence), and no insurance policies. *Id.*, at 15-16.

On Schedule C, Debtor claims a homestead exemption in the Bend Avenue Property, the Lake Blvd Property, and the Speckled Avenue Property. Sch. C; Dckt. 1 at 19.

While filing a Chapter 13 Plan and a Motion to Confirm, the information in this Bankruptcy Case does not show that Debtor can diligently prosecute this Case in good faith.

Debtor has twice failed to provide the required income and expense information for her sole proprietorship business and her real estate rental properties. The court and parties in interest have no idea what the actual Gross income and the Necessary expenses are for any of these. It may be that Debtor's "living expenses" are so low because the sole proprietorship and rental expenses include providing the Debtor with food, clothing, jewelry, and the like.

While the Debtor now states that business and financial information has been provided to the Trustee, such continues to be kept secret from the court and other parties in interest due to Debtor's failure to provide such gross income and expense information as required for sole proprietorship and rental properties on Schedule I.

At the hearing, **XXXXXXX**

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 **XXXXXXX**

21. [23-24387-E-13](#)
[DPC-2](#)

JERRY HARDEMAN
Nancy Haley

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

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). 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.

July 9, 2025 Hearing

The court continued the hearing after engaging in extensive dialogue with Debtor regarding hiring competent bankruptcy counsel to prosecute this complicated case. A review of the Docket on July 1, 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, 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.

At the hearing, the Trustee reported that no payment was made in May, 2025, and the arrearage has increased.

At the hearing the Debtor appeared and stated that his counsel of record was no longer representing him. Debtor's counsel had stated that on the record at a prior hearing and she was having to withdraw due to health issues.

The Debtor has presented various issues, including an alleged fraudulent transfer of his residence by his son, and asserts he has the ability to perform a plan.

From what has been presented to the court, it is clear that the Debtor needs to be represented by counsel and cannot prosecute this Case in *pro se*.

The court continues the hearing to 9:00 a.m. on July 9, 2025, to afford Debtor to obtain bankruptcy counsel.

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 May 9, 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).

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, Kevin Jeffrey Macy and Kristy Ann Macy ("Debtor"), is delinquent \$3,284.91 in plan payments. Debtor will need to have paid \$6,841.93 to become current by the hearing date. Mot. 1:19-22, Docket 162.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 164.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2025. Dockets 166-67. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$3,284.91 delinquent in plan payments, which represents multiple months of the \$1,778.51 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 Debtor has cured 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 **XXXXXXX**.

23. [23-22691](#)-E-13 **BRYANT/CAROL HIGGS** **MOTION TO DISMISS CASE**
[DPC-2](#) **Douglas Jacobs** **5-9-25 [37]**

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 9, 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).

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, Bryant Earl Higgs and Carol Alice Higgs (“Debtor”), is delinquent \$3,884.60 in plan payments. Debtor will need to have paid \$9,255.90 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 on June 11, 2025. Docket 41. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$3,884.60 delinquent in plan payments, which represents multiple months of the \$2,685.65 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).

However, Debtor states the delinquency will be cured prior to the hearing. 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, Debtor's Attorney, and Office of the United States Trustee on May 9, 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).

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, Renorio Seguritan Sana and Leticia Pacleb Sana ("Debtor"), is delinquent \$5,899.73 in plan payments. Debtor will need to have paid \$17,540.43 to become current by the hearing date. Mot. 1:19-22, Docket 22.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 26.

DEBTOR'S RESPONSE

Debtor filed a Response on June 17, 2025. Docket 26. Debtor states they have reached out to the Trustee to work out a payment plan to cure the delinquency.

DISCUSSION

Delinquent

Debtor is \$5,899.73 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).

In this case, there is an effort to cure the delinquency through a repayment Plan. Debtor does not propose curing the delinquency through a Modified Plan. 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**.

25. [20-22397](#)-E-13
[DPC](#)-4

CRAIG WEBBER
Candace Brooks

MOTION TO DISMISS CASE
5-9-25 [89]

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 9, 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).

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, Craig Reid Webber (“Debtor”), is delinquent \$3,791.00 in plan payments. Debtor will need to have paid \$11,289.00 to become current by the hearing date. Mot. 1:19-22, Docket 89.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 91.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 24, 2025. Dockets 93-94. Debtor states he acknowledges the delinquency and would request an opportunity to cure the delinquency. Debtor

testifies he has been in the case since 2020, now being in month 60, and needs to make the final payments to complete.

However, Debtor explains his home experienced a lot of damage this year due to the Santa Ana winds, and he had to pay for these repairs out of pocket, causing the delinquency. Decl. ¶ 4. Debtor states he will make payments over the next three months to complete the Plan, and Debtor has already made a payment in the amount of \$2,700 on June 20, 2025. *Id.* at ¶ 7.

DISCUSSION

Delinquent

Debtor is \$3,791.00 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).

In this case, Debtor has already paid \$204,788 into the Plan and has only a few payments remaining to complete the Plan. Debtor requests a few months to finish the Plan. The Plan is not being modified or extended beyond 60 months, and it is within the court's discretion to allow a Plan to complete. See, e.g., *In re Hill*, 374 B.R. 745 (2007) (denying the chapter 13 trustee's motion to dismiss because, although the debtor would continue to make payments beyond the 60-month term of the confirmed plan, it was in the best interests of creditors and debtor to allow debtor to complete the plan payments). Collier's Treatise on Bankruptcy states regarding plan payments being made beyond 60 months:

In addition, the fact that a debtor does not actually conclude the payments within the stated period does not constitute a violation of section 1322(d). The subsection focuses on the payments provided for by the plan. If payments are late, but the debtor is substantially complying with the plan, the court should allow the plan to be completed within a reasonable time after the stated term. As the Court of Appeals for the Third Circuit held in *Klaas v. Shovlin (In re Klaas)*, section 1322(d) is intended to provide debtors protection against being forced into plans longer than five years and not to provide creditors with a "sword" to be used against debtors.

8 COLLIER ON BANKRUPTCY ¶ 1322.18[2].

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 22, 2025. By the court's calculation, 48 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.

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

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

1. The debtor, Julia Francis Woulfe ("Debtor"), is delinquent \$42.00 in plan payments. Mot. 2:1-6, Docket 36.
2. Debtor filed a Chapter 13 Plan on December 17, 2024, but Debtor never filed a Motion to Confirm and Notice of Hearing. *Id.* at 1:23-28.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 38.

DISCUSSION

Delinquent

Debtor is \$42.00 delinquent in plan payments. The next scheduled payment of \$1,000.00 will be due on May 25, 2025, with another payment, of \$150.00, due on June 25, 2025. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Never Noticed Initial Plan

Debtor did not properly serve the Plan on all interested parties and has yet to file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore, Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. 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.

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 23, 2025. By the court's calculation, 47 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.

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

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

1. The debtor, Maria Guadalupe Guillen ("Debtor"), has failed to file an amended Plan and set for confirmation after the court sustained Trustee's objection to confirmation of the original plan on March 30, 2025. Mot. 1:23-26.

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

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 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).

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 RULINGS

28. [24-21908-E-13](#)
[DPC-1](#)

SELENA CONTRERAS
Steven Alpert

MOTION TO DISMISS CASE
5-14-25 [\[32\]](#)

Final Ruling: No appearance at the July 9, 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 14, 2025. By the court’s calculation, 56 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.

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

1. The debtor, Selena Lynn Contreras (“Debtor”), is delinquent \$2,654.00 in plan payments. Debtor will need to have paid \$5,308.00 to become current by the hearing date. Mot. 1:19-22, Docket 32.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 37.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2025. Dockets 36-37. Debtor states that Modified Plan and Motion to Confirm that will address the delinquency will be filed.

DISCUSSION

Delinquent

Debtor is \$2,654.00 delinquent in plan payments, which represents multiple months of the \$1,327.00 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).

Modified Plan

Debtor filed a Modified Plan and Motion to Confirm on July 1, 2025, with the hearing on Confirmation set for August 12, 2025. Dckts. 43, 39. The Motion states several “real life” financial events that it Debtor which led to the default. Motion, ¶¶ 16, 17; Dckt. 39. Additionally, that under the Modified Plan the creditors with general unsecured claims will still receive a 100% dividend on their claims. *Id.*; ¶ 23.

Debtor’s Declaration provides personal knowledge testimony as to not only the events stated to be the cause of the default, but how she can rebound in this Case and complete a 100% Plan. Dckt. 41.

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.

29. 23-23309 -E-13	MICHELLE GONZALES	MOTION TO DISMISS CASE
DPC-1	Mark Shmorgon	5-9-25 [20]

Final Ruling: No appearance at the July 9, 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 9, 2025. By the court’s calculation, 61 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.

The Chapter 13 Trustee, David Cusick (“Trustee”), moved to dismiss the case based on plan payment delinquency.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on June 23, 2025. Docket 31. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 31. 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.

30. [24-25011](#)-E-13
[DPC-1](#)

DENNIS MCCAFFERTY
Teresa Hung-Nguyen

MOTION TO DISMISS CASE
5-9-25 [58]

Final Ruling: No appearance at the July 9, 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 9, 2025. By the court's calculation, 61 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.

The Chapter 13 Trustee, David Cusick ("Trustee"), moved to dismiss the case based on plan payment delinquency.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on June 9, 2025. Dockets 68, 65. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 37. 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 July 9, 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 June 6, 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.

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, David Norman Gill and Mary Elizabeth Gill ("Debtor"), is delinquent \$13,400.64 in plan payments. Mot. 1:24-2:3, Docket 36.
2. Creditor, Carrington Mortgage Services, objected to confirmation of Debtors' original Plan, which was sustained at hearing on May 20, 2025. Debtors have failed to file an amended Plan and set for confirmation. *Id.* at 2:4-7.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 38.

DISCUSSION

Delinquent

Debtor is \$13,400.64 delinquent in plan payments, which represents multiple months of the \$5,928.06 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).

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 May 20, 2025.

Plan and Motion to Confirm Filed

Debtor has filed an Amended Plan (Dckt. 45) and Motion to Confirm (Dckt. 41) 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. 43) 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.

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 July 10, 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 21, 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 July 7, 2025. Docket 33.

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks to dismiss James Michael Rutz's ("Debtor") Chapter 13 case. Debtor filed a Notice of Conversion on July 7, 2025, however, converting the case to a proceeding under Chapter 7. Dckt. 33. 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 July 7, 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.

33. [25-21035-E-13](#) **NATHANIEL/JENNIFER DOANE** **MOTION TO DISMISS CASE**
[DPC-1](#) **Michael Hays** **6-5-25 [25]**

Final Ruling: No appearance at the July 10, 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 June 5, 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). 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 their Notice of Conversion on July 7, 2025. Docket 34.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Nathaniel David Doane and Jennifer Michelle Doane’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on July 7, 2025, however, converting the case to a proceeding under Chapter 7. Dckt. 34. 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 July 7, 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.

34. [24-24440-E-13](#)
[DPC-2](#)

**TIMOTHY/EVENGELINA
HERNANDEZ**
Pauldeep Bains

MOTION TO DISMISS CASE
5-14-25 [48]

Final Ruling: No appearance at the July 9, 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 14, 2025. By the court’s calculation, 56 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.

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

1. The debtor, Timothy John Hernandez and Evengelina Hernandez (“Debtor”), is delinquent \$5,300.00 in plan payments. Debtor will need to have paid \$15,900.00 to become current by the hearing date. Mot. 1:19-22, Docket 48.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 50.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting a Declaration and Exhibits on June 25, 2025. Dockets 54-56. Debtor states the delinquency has been cured and provides authenticated evidence to show the delinquency has been cured. The attached Exhibits show Debtor having made a payment of \$5,300 on May 22, 2025, and another payment of \$5,300 on May 28, 2025, which would bring them current through May of 2025. Docket 55.

DISCUSSION

Delinquent

At the time of filing the Motion Debtor was \$5,300.00 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).

However, Debtor has submitted evidence that they are current at least through May of 2025.

The Motion 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 July 9, 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 9, 2025. By the court’s calculation, 61 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.

The Chapter 13 Trustee, David Cusick (“Trustee”), moved to dismiss this case based on plan payment delinquency.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on June 20, 2025. Dockets 30, 32. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Docket 33. 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.

DEBTOR DISMISSED: 06/08/25**Final Ruling:** No appearance at the June 4, 2025 Hearing is required.

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 June 4, 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 fees in the case.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on June 8, 2025 (Docket 42), 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.

Final Ruling: No appearance at the July 9, 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 22, 2025. By the court’s calculation, 48 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.

The Chapter 13 Trustee, David Cusick (“Trustee”), filed the Motion to Dismiss based on plan payment delinquency and no plan pending after the court denied confirmation of Debtor’s prior Plan. Order, Docket 80.

FILING OF AMENDED PLAN

Debtor filed an Amended Plan and Motion to Confirm on June 25, 2025. Dockets 91, 93. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Docket 95. 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.

DEBTOR DISMISSED: 06/16/25

Final Ruling: No appearance at the July 9, 2025 Hearing is required.

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 June 12, 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 filing fees.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on June 16, 2025 (Docket 13), 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.

Final Ruling: No appearance at the July 9, 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 9, 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). 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.

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

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

1. The debtor, Jonathan Edward Ambriz (“Debtor”), is delinquent \$900.00 in plan payments. Debtor will need to have paid \$1,800.00 to become current by the hearing date. Mot. 1:19-22, Docket 35.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 37.

DISCUSSION

Delinquent

Debtor is \$900.00 delinquent in plan payments, which represents multiple months of the \$450.00 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.

40. [24-23193-E-13](#) **NANETTE/JOHN BAUTISTA** **MOTION TO DISMISS CASE**
[DPC-1](#) **Mikalah Liviakis** **5-9-25 [35]**

Final Ruling: No appearance at the July 9, 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 9, 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). 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.

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

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

1. The debtor, Nanette Rose Bautista and John Alan Bautista (“Debtor”), is delinquent \$5,150.00 in plan payments. Debtor will need to have paid \$10,300.00 to become current by the hearing date. Mot. 1:19-22, Docket 35.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 37.

DISCUSSION

Delinquent

Debtor is \$5,150.00 delinquent in plan payments, which represents multiple months of the \$2,575.00 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.