

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

July 10, 2024 at 9:00 a.m.

1. [24-21235-E-13](#) **ASHLEY/JEFF VANHEE** **MOTION TO DISMISS CASE**
[DPC-3](#) **Joe Laub** **6-21-24 [53]**

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, Debtor's Attorney, and Office of the United States Trustee on June 1, 2024. By the court's calculation, 39 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 debtors, Ashley VanHee and Jeff VanHee ("Debtors"), have not made any payment in accordance with the Plan. Debtors will need to have paid \$24,000.00 to become current by the hearing date. Mot. 1:24-2:6, Docket 53.

2. Debtors have not filed tax returns for 2020-2023. Mot. 2:7-10, Docket 53.
3. The Trustee has pending Objections to Debtors' Plan, set for July 2, 2024 hearing. Mot. 2:11-13, Docket 53.
4. Debtors and Debtors' Attorney have failed to attend two instances of 341 meetings without explanation. Mot. 2:14-17, Docket 53.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 55.

DISCUSSION

No Plan Payments Made / Failed to Commence Plan Payments

Debtors did not commence making plan payments and are \$16,000.00 delinquent in plan payments, which represents multiple months of the \$8,000.00 plan payment. 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. Debtors did not present any opposition to the Motion.

Failed to Appear at § 341 Meeting of Creditors

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

Alternatively, if Debtors' case is not dismissed, Trustee requests that the deadline to object to Debtors' discharge and the deadline to file motions for abuse, other than presumed abuse, be extended to sixty days after the date of Debtors' next scheduled Meeting of Creditors, which is set for 2:00 P.M. on August 1, 2024. If Debtor fails to appear at the continued Meeting of Creditors, Trustee requests that the case be dismissed without further hearing.

Failure to File Tax Returns

The Franchise Tax Board has filed a Proof of Claim showing no Debtor tax returns had been filed for the years 2020, 2021, 2022, and 2023. Filing of the return is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is a ground to dismiss the case. 11 U.S.C. § 1307(e).

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.

2. [24-20173-E-13](#)

LISA O'GUINN
Thomas Amberg

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
5-21-24 [42]

2 thru 3

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, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 22, 2024. The court computes that 49 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on May 16, 2024.

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

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

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

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

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

Final Ruling

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, Chapter 13 Trustee, and other such other parties in interest as stated on the Certificate of Service on April 23, 2024. The court computes that more than 70 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on April 16, 2024.

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

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

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

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

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

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

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, parties requesting special notice, and Office of the United States Trustee on June 10, 2024. 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 denied without prejudice.
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Song Sing Lim (“Debtor”), is delinquent \$1,220 in plan payments. Debtor will need to have paid an additional \$610 to become current by the hearing date. Mot. 1:25-2:3, Docket 40.

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

DEBTOR’S RESPONSE

Debtor filed a Response on Jun 26, 2024. Docket 44. Debtor states the delinquency has been cured prior to the hearing date, but submits no evidence in support. *Id.* at ¶ 4.

DISCUSSION

Delinquent

Debtor is \$1,220 delinquent in plan payments, which represents multiple months of the \$610 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).

In this case, Debtor indicates the delinquency has now been cured.

At the hearing, **XXXXXXX**

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

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

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

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

5. [19-20107-E-13](#) **ANGELITA ADAMS** **MOTION TO DISMISS CASE**
[DPC-5](#) **Gary Fraley** **5-31-24 [104]**

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—Tentative Hearing.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons who have filed a Request for Notice, and Office of the United States Trustee on May 31, 2024. By the court’s calculation, 40 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. The debtor, Angelita Adams (“Debtor”), is delinquent \$12,972.21 in plan payments. Mot. 1:25-3:1, Docket 104.

2. This case is currently in month 64 of a 60-month plan so the delinquent amount is the amount required to complete the case in June 2024. *Id.*
3. This case was filed on January 9, 2019. The Debtor has paid \$215,458.73 into the Plan to date. Mot. 1:25-28, Docket 104.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 106.

DISCUSSION

Delinquent

Debtor is \$12,972.21 delinquent in plan payments, and because the 60-month Plan is in month 64, Debtor must make this final payment to complete the Plan. Modification is not an option. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Overextended Plan

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 sustain the objection. This case is currently in month 64 of a 60-month period. Mot. 1:25-3:1, Docket 104. Debtor has not filed any opposition to this Motion, indicating that Debtor is at the end of his “financial rope” and nothing can be done to save this case at the end of the 60-month 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.

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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 17, 2024. By the court's calculation, 54 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 debtors, Harjit Singh Janda and Rakhwant Kuar Singh ("Debtors"), are delinquent \$1,585.00 in plan payments. Debtor will need to have paid \$2,219.00 to become current by the hearing date. Mot. 1:19-22, Docket 55.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 57.

DEBTOR'S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 59. Debtor states the Trustee was incorrect in the valuation of the amount in default. The Plan proposed 60 payments of \$317.00 each for a total of \$19,020.00. Opp'n 1:22-23, Docket 59. The Trustee acknowledges that there is still a \$317.00 payment to be made and that \$18,386.00 has been received, leaving a deficiency of \$634.00 which Debtors hope to cure by the hearing date. *Id.* at 25-29.

However, the Trustee also alleges that \$19,971.00 is owing, which is another \$951.00 above the \$19,020.00 that Debtors believed they were obligated to pay. *Id.* at 1:30-32. If the higher amount is correct, Debtors request that they be allowed an additional 60 days to pay the remaining \$951.00 to the Trustee. *Id.* at 1:32-2:2.

DISCUSSION

Delinquent

Trustee alleges that Debtors are \$1,585.00 delinquent in plan payments, which represents multiple months of the \$317.00 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). However, Debtors allege that the Trustee incorrectly calculated the amount due. If Debtors owe \$951.00 instead of \$634.00, then Debtors ask that they be allowed an additional 60 days to pay the remaining amount. Opp'n 1:32-2:2, Docket 59.

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—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court's calculation, 61 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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 granted, and the case is dismissed.</p>
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Jason Diven ("Debtor"), is delinquent \$4,413.10 in plan payments. Debtor will need to make two additional monthly payments of \$1,773.30 by the hearing date. Mot. 1:28-2:2, Docket 145.
2. The Plan is overextended. Trustee calculates the Plan will complete in 71 months due to unsecured claims being greater than Debtor anticipated. *Id.* at 2:10-14.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 147.

DISCUSSION

Delinquent

Debtor is \$4,413.10 delinquent in plan payments, which represents multiple months of the \$1,773.30 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

According to Trustee, the Plan will take 71 months to complete due to unsecured claims being greater than Debtor anticipated when the Plan was confirmed. 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 sustain the objection.

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. 24-20313 -E-13 8 thru 9	KEANNA ALMEDA Peter Macaluso	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 4-30-24 [62]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter. 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, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on April 30, 2024. The court computes that 71 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on April 25, 2024.

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

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

The filing fee delinquency having not been cured, the Order to Show Cause is sustained and the Bankruptcy 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 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.

9. 24-20313 -E-13	KEANNA ALMEDA Peter Macaluso	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 5-30-24 [71]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. 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, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 30, 2024. The court computes that 41 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: \$77 due on May 28, 2024.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.

The filing fee delinquency having not been cured, the Order to Show Cause is sustained and the Bankruptcy 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 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.

10. 19-21015-E-13 DPC-7	CAVIN SMITH AND DIANA AGUILAR Scott Hughes	MOTION TO DISMISS CASE 5-14-24 [85]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court's calculation, 57 days' notice was provided. 28 days' notice is required.

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

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

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

1. The debtor, Cavin Wayne Smith and Diana Carolina Aguilar ("Debtor"), is delinquent \$4,600.00 in plan payments, but has paid a total of \$135,438.30 into the Plan to date. Debtor will need to pay \$9,188.50, in order to bring this plan current by the date of the hearing. Mot. 1:18-23, Docket 85.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 87.

DISCUSSION

Delinquent

Debtor is \$4,600.00 delinquent in plan payments, which represents multiple months of the \$2,294.25 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.

11. [20-22315-E-13](#) **HEIDI ADCOCK ARASOMWAN** **MOTION TO DISMISS CASE**
[DPC-4](#) **Chinonye Ugorji** **5-10-24 [96]**

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—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. The debtor, Heidi Francis Adcock Arasomwan (“Debtor”), is current in plan payments having paid \$136,879.72 to date. Mot. 1:24-25, Docket 85.
2. However, Debtor is not in compliance with her Plan. Debtor stated in her nonstandard provisions of the Plan that she was in the process of obtaining a loan modification and would seek court approval once approved. Now in month 48 of a 60 month Plan, there is no update on the loan modification. *Id.* at 1:26-2:9.
3. Plan is overextended. The Plan as proposed would take 249 months to complete. The overextension is due to Debtor needing to obtain the loan modification. *Id.* at 2:10-22.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 87.

DISCUSSION

Plan Compliance and Overextended Plan

Debtor’s confirmed Chapter 13 Plan states she will make adequate protection payments of \$2,238 per month to creditor New Rez LLC d/b/a Shellpoint Mortgage Servicing (“Creditor”) until debtor could obtain a loan modification to cure pre and postpetition arrears. Plan § 7.02.1-7.02.3, Docket 77. A review of the Docket shows no such agreement has been made, meaning the Plan is severely underfunded to cure arrears.

Without the loan modification being filed and granted, the Plan will take 249 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 sustain the objection.

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, parties requesting special notice, and Office of the United States Trustee on June 5, 2024. By the court's calculation, 35 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
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Susan Lynn Vasques ("Debtor"), has failed to file an amended Plan and set it for confirmation after this court sustained Trustee's Objection to the previous Plan at Docket 23. Mot. 1:24-27, Docket 25.
2. The Debtor failed to appear and was not examined at the First Meeting of Creditors held on April 18, 2024, and also failed to appear at the continued Meeting of Creditors on May 23, 2024. *Id.* at 2:1-6.
3. The Debtor has failed to provide the Trustee with a tax transcript or a copy of her Federal Income Tax Return with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists. *Id.* at 2:8-13.
4. Debtor has failed to provide documents requested by the Trustee as required by FRBP 4002(a)(4.) The Debtor has provided the Trustee with profit and loss statements for the years 2022 and 2023.

The trustee also seeks:

- a. Business Case Questionnaire;
- b. 2 years of Tax Returns;

c. 6 months of Bank Statements;

d. Proof of license and insurance or written statements that no such documentation exists

Id. at 2:14-22.

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

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 May 21, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failed to Appear at § 341 Meeting of Creditors

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

Failure to 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 File Documents Related to Business

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

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

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

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.

13. [18-27716-E-13](#)
[DPC-4](#)

APRIL BRYANT
Gabriel Liberman

**CONTINUED MOTION TO DISMISS
CASE
3-19-24 [92]**

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 19, 2024. 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.

The Motion to Dismiss is XXXXXXX
--

July 10, 2024 Hearing

The court continued the hearing because Counsel for Debtor reported that they will bring a motion to accelerate the funding of the Plan to pay the balance due with one lump sum using the Social

Security benefits that Debtor will receive shortly. A review of the Docket shows no such Motion has been filed.

At the hearing, **XXXXXXX**

REVIEW OF THE MOTION

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

1. The debtor, April Bryant (“Debtor”), is delinquent \$424 in plan payments. Debtor will need to have paid \$840 to become current by the hearing date.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 94.

DISCUSSION

Delinquent

Debtor is \$424 delinquent in plan payments, which represents multiple months of the \$208 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 has filed an opposition that it is her intention to have the default cured by the May 1, 2024 hearing. Dckt. 96.

At the hearing, counsel for the Trustee reported that Debtor is now delinquent \$840.00 delinquent in 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 hearing on 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, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

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

<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, Brooke Lynn Smith (“Debtor”), is current in plan payments.
2. However, the Plan is overextended, taking up to 85 months to complete by Trustee’s calculations. The reason for the overextension appears to be that Class 5 priority creditors filing claims (Amd Proof of Claim 12-3 and Amd Proof of Claim 23-3) in the amount of \$25,612.36 where the Debtor estimated these claims in the plan in the amount of \$13,500.00. Mot. 1:27-2:7, Docket 24.

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

DISCUSSION

Overextended Plan

According to Trustee, the Plan will take 85 months to complete due to Class 5 priority creditors filing claims in the amount of \$25,612.36 where the Debtor estimated these claims in the plan in the amount of \$13,500.00. 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 sustain the objection.

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.

15. [23-22217-E-13](#) **WLODZIMIERZ LITWIN** **MOTION TO DISMISS CASE**
[DPC-2](#) **Peter Macaluso** **5-28-24 [105]**

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, parties requesting special notice, and Office of the United States Trustee on May 28, 2024. 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). 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, Wlodzimierz J. Litwin (“Debtor”), has failed to file an amended Plan and set for confirmation after this court sustained Trustee’s Objection to the prior Plan on March 12, 2024. Mot. 1:24-26, Docket 105.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 107.

DEBTOR’S RESPONSE

Debtor filed a Response on June 25, 2024, requesting the Motion be denied. Docket 109. Debtor states the Plan is incumbent on Adversary Proceeding 24-02042, which is pending a status conference on July 10, 2024, and pursuant to discussions with defendant’s counsel, that the required release of lien is forthcoming. *Id.* at 1:25-2:1.

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 12, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. However, Debtor indicates that a feasible Plan can now be presented with the conclusion of the related Adversary Proceeding 24-02042.

This Bankruptcy Case was filed on July 5, 2023. Now, more than one year after it was filed, Debtor states that \$1,500.00 has been paid to the Chapter 13 Trustee and that no plan may be prosecuted until Debtor completes the litigation in Adversary Proceeding 24-2042. Debtor offers no testimony in opposition, with the forgoing presented as argument by his counsel.

Adversary Proceeding 24-2042 was commenced by Debtor on May 1, 2024, which was ten (10) months after this Chapter 13 Case was filed. The Complaint alleges that Bank of America, N.A. released Debtor from the obligation that was secured by his Property as of September 27, 2019. Debtor asserts that the Defendants in the Adversary Proceeding are attempting to enforce the debt from which Debtor was released by Bank of America. 24-2042; Complaint, Dckt. 1. Defendants have asserted that Bank of America did not release the debt, and cite to irregularities in the communication which states that the debt will be released. Opp. to Mtn. to Confirm; Dckt. 87.

The Complaint seeks to quiet title to the real property commonly known as 3704 Larkspur Lane, Cameron Park, California.

No answer has been filed to the Complaint in the Adversary Proceeding. Plaintiff-Debtor’s counsel states in the Status Report that “Defendants” request the court set discovery deadlines (request 30 days) and that the court set a time that it “may deem fit” for a default judgment “if Defendant fails to file an answer within the (10) days after this hearing.” 24-2042; Status Report, Dckt. 9.

It is unclear from the Status Report whether it is the Defendants or the Plaintiff-Debtor requesting a 30 day discovery deadline. It is also unclear why the court is being asked to set a deadline for default judgment. The Federal Rules of Civil Procedure, as incorporated into the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules provide for the deadline for filing an answer, how the Plaintiff-Debtor requests the entry of a default, and how the Plaintiff-Debtor obtains a default judgment.

The Complaint names the following Defendants:

1. MEB Trust IV,
2. U.S. Bank Trust National Association,

After review of Proof of Claim 25-1, Plaintiff-Debtor may have intended the first defendant to be “U.S. Bank Trust National Association as trustee of the MEB Trust IV.”

3. Bank of America, N.A., and
4. Specialized Loan Servicing, LLC.

24-2024; Complaint, Dckt. 1.

The Certificate of Service filed by the Plaintiff-Debtor does not document that service was made on MEB Trust IV (the trustee of the trust must be a named defendant and the trustee served), U.S. Bank Trust National Association, or Bank of America N.A. *Id.*; Dckt. 8.

Looking at the secured claims filed in the Debtor’s Bankruptcy Case, the court notes the following for which the Larkspur Lane property is identified as the collateral:

1. Proof of Claim 25-1.
 - a. Creditor identified as: “MEB Loan Trust IV, U.S. Bank Trust National Association, not in its individual capacity but solely as trustee.”

The court reads this to say that U.S. Bank National Trust Association is the trustee of the MEB Loan Trust IV, for which the trustee needs to be a named defendant and property served as required under Federal Rule of Bankruptcy Procedure 7004.

- b. Amount of Claim: (\$200,726.02).
2. Proof of Claim 13-1
 - a. Creditor identified as “JPMorgan Chase Bank, National Association.
 - b. Amount of Claim: (\$12,045.62).

The Internal Revenue Service and the California Franchise Tax Board have asserted tax liens, however, such do not appear to be the subject of the Adversary Proceeding.

Federal Rule of Bankruptcy Procedure 7004 requires that the defendant or its agent for service of process be served with the summons and complaint. Federal Rule of Bankruptcy Procedure 3007 provides for service for an objection to claim, which is a contested matter, and that an objection to claim may be served on the person designated to receive notices on the Proof of Claim and, if the creditor is an

insured depository institution, service of the objection to claim must be made as required in Federal Rule of Bankruptcy Procedure 7004(h).

**Failure of Debtor to Provide
For Litigation as Terms of the Chapter 13 Plan.**

The court sustained the Trustee's Objection to Confirmation, with the court's order denying confirmation entered on March 13, 2024. Dckt. 95. This is after the hearing on the Objection was continued from October 24, 2023, to December 5, 2023, to January 30, 2024, and then to March 12, 2024. Civ. Minutes; Dckt. 92.

As set forth in the above Civil Minutes, there were multiple grounds for sustaining the Objection to Confirmation after the multiple continuances.

The Plan proposed by Debtor (Dckt. 15) provided for monthly plan payments of only \$150.00 a month for thirty-six months. No provision is made in the Plan to use the automatic stay as a "preliminary injunction" to prevent a foreclosure while Debtor would diligently prosecute the quiet title litigation.

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, persons having filed a Request for Notice, and Office of the United States Trustee on February 15, 2024. 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). Therefore, the defaults of the respondent and other parties in interest are entered.

The Motion to Dismiss is xxxxxxx.

July 10, 2024 Hearing

The court continued the hearing on this Motion to allow Debtor to confirm their Modified Plan at Docket 95. That Motion is to be heard on July 2, 2024.

The court denied confirmation of the Debtor’s Plan. Order; Dckt. 110.

At the hearing, xxxxxxx

REVIEW OF THE MOTION

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

1. The debtor, Jack Jodoin and Maryanne Jodoin (“Debtor”), is delinquent \$2,166 in plan payments. Debtor’s monthly plan payment is \$250. Debtor will need to pay \$2,416 to bring the Plan current by the hearing date.

Docket 82 p. 1:17-22. Trustee submits the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 84.

DISCUSSION

Delinquent

Debtor is \$2,166 delinquent in plan payments, which represents multiple months of the \$250 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).

Counsel for the Debtor reported that due to changes in counsel work location, this was mis-calendared by counsel, and responses were late filed.

Counsel for the Chapter 13 Trustee concurred with the request for a continuance in light of the facts and circumstances in this Case.

The Hearing on the Motion to Dismiss is continued to 9:00 a.m. on May 1, 2024.

May 1, 2024 Hearing

At the prior hearing, counsel for the Debtor reported that due to changes in counsel work location, this was mis-calendared by counsel, and responses were late filed. Counsel for the Chapter 13 Trustee concurred with the request for a continuance in light of the facts and circumstances in this Case.

In the March 15, 2024 Response, Debtor admits to the delinquency but states a Modified Plan is anticipated to address the delinquency. Docket 88 ¶ 2. As of the court's review on April 25, 2024, no Modified Plan or other new documents have been filed.

At the hearing, counsel for the Debtor reported that the Modified Plan, Motion to Confirm, and supporting Pleadings have been filed. The Trustee concurred in the request for a continuance to allow Debtor to seek confirmation of the Modified Plan.

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

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

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

IT IS ORDERED that the 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 persons who have requested special notice on May 10, 2024. By the court's calculation, 61 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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 XXXXXXX.</p>
--

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

1. The debtors, Shiloh John Groeneweg and Ryan Lynn Groeneweg ("Debtors"), are delinquent \$3,425.00 in plan payments. Debtors will need to have paid \$10,275.00 to become current by the hearing date. Motion 1:25-2:2, Docket 20.
2. A Chapter 7 conversion is not in the best interest of creditors or the estate. Motion 2:3-16, Docket 20.

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

DEBTOR'S RESPONSE

Debtors filed a Declaration in Opposition on June 26, 2024. Decl., Docket 24. Debtors state the delinquent payment is currently being processed by TFS Bill Pay.

DISCUSSION

Delinquent

Debtors are \$3,425.00 delinquent in plan payments, which represents one month of the \$3,425.00 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).

However, here, Debtors state the payment to cure is processing. 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**.

18. [19-21435-E-13](#) **HORTENCIA NUNEZ** **MOTION TO DISMISS CASE**
[DPC-3](#) **Peter Macaluso** **5-17-24 [108]**

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, Parties requesting special notice, and Office of the United States Trustee on May 17, 2024. By the court’s calculation, 54 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, Hortencia Nunez (“Debtor”), is delinquent \$890.79 in plan payments. Debtor will need to have paid \$5,353.37 to become current by the hearing date. Mot. 1:18-23, Docket 108.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 110.

DEBTOR'S RESPONSE

Debtor filed an Opposition and supporting Declaration on June 25, 2024. Dockets 112, 113. Debtor states the delinquency will be cured prior to the hearing date. Decl. ¶ 3, Docket 113.

DISCUSSION

Delinquent

Debtor is \$890.79 delinquent in plan payments, which represents less than one month of the \$2,231.29 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, in this case, Debtor claims they will be 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 **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, Parties requesting special notice, and Office of the United States Trustee on June 5, 2024. By the court’s calculation, 35 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. No Motion to Confirm Plan is pending following Objection to Confirmation, which was sustained December 12, 2023. Mot. 1:24-2:7, Docket 47.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 49.

DISCUSSION

No Pending Plan

Debtor did not Move to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on December 12, 2023. A review of the docket shows that Debtor has not yet moved to confirm the Amended Plan that was filed on March 19, 2024. 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.

20. 19-25741 -E-13	MICHAEL/SARA ELDER	MOTION TO DISMISS CASE
DPC-1	Mikalah Liviakis	5-15-24 [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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 15, 2024. Proof of Service 2:4-5, Docket 40. 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 debtors, Michael Dean Elder and Sara Jean Elder (“Debtors”), are delinquent \$854.02 in plan payments. Debtors will need to have paid \$4,206.48 to become current by the hearing date. Mot. to Dismiss 1:19-21.

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

DEBTOR'S RESPONSE

Debtors filed a Response and supporting Declaration on June 25, 2024. Dockets 41, 42. Debtors state that they have been in their Chapter 13 Plan since September 11, 2019. Opp'n 1:28, Docket 41. The Debtors first fell behind in their Chapter 13 payments because of some unanticipated car repairs and some medical bills that they incurred. *Id.* at 2:1-2. As a result, the Debtors were delinquent \$854.02 (approximately ½ a plan payment) as evidenced by the Debtors' Declaration filed concurrently with this response. Decl., Docket 42.

Debtors state that they will be current with the Chapter 13 Plan prior to the hearing date on this Motion to Dismiss as evidenced by Debtors' Declaration filed concurrently with this Response. *Id.* at 1:28-2:1. Debtors apologize for falling behind in their plan payments and would like the opportunity to remain in their Chapter 13 Plan. Opp'n 2:8-9, Docket 41. The Debtors request that their Chapter 13 case not be converted or dismissed as they have paid over \$77,105.63 into their Chapter 13 Case. *Id.* at 2:10-11.

DISCUSSION

Delinquent

Debtors are \$854.02 delinquent in plan payments, which represents approximately ½ of the \$1,676.23 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:19-20, Docket 37. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, Debtors assert that they will be current before 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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 8, 2024. Proof of Service 2:4-5, Docket 23. By the court's calculation, 63 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. Delinquent plan. The debtors, Robert Martin Pedersen and Robbyn Ranee Pedersen ("Debtors"), are delinquent \$7,896.00 in plan payments to the Trustee to date and the next scheduled payment of \$3,948.00 is due on May 25, 2024. Mot. to Dismiss 1:25-26, Docket 20. The case was filed on 02/02/2024. The Plan in §2.01 calls for payments to be received by the Trustee not later than the 25th day of each month beginning the month after the order for relief under Chapter 13. The Debtors have paid \$0.00 into the Plan to date. *Id.* at 1:26-2:2.
2. Trustee recommends dismissal. The Debtors must be current under all payments called for by any pending Plan, Amended Plan or Modified Plan as of the date of the hearing on this motion or the case may be dismissed. *Id.* at 2:4-5. According to the Trustee's records, there is \$27,660.00 in non-exempt equity in the assets listed on Schedules A & B. Where the plan proposes to pay 46.00% to unsecured which were estimated in the plan at \$56,684.47, the Trustee believes that conversion to a Chapter 7 is not in the best interest of creditors or the estate (\$18,800.00 of the non-exempt equity is Debtors' interest in their business which does not appear to be producing sufficient income for them to make plan payments). *Id.* at 2:7-13. According to the Trustee's records, this case has not previously been converted from another chapter. *Id.* at 2:14-15.

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

DEBTOR'S RESPONSE

Debtor Robert Pederson filed a Declaration in response on June 26, 2024. Decl., Docket 24. In his Declaration in opposition to Motion to Dismiss, Debtor Robert M. Pedersen, states that he filed his Chapter 13 bankruptcy on February 2, 2024, in order to deal with home arrearage and unsecured credit debt. Decl. 2:1-2, Docket 24. Debtor states that his Chapter 13 Plan was confirmed on April 15, 2024 and as of the current date \$8100.00 has been paid into the Plan. *Id.* at 2:3-5.

The Debtor acknowledges the delinquency in his plan payments as stated by the Trustee. *Id.* at 2:6-7. The Debtor explains that he is a self-employed insurance agent and shortly after he filed his bankruptcy, the company that pays his commissions was sold delaying his ongoing commission payments for nearly 3 months. *Id.* at 2:7-10. This issue has been resolved and he is now receiving his regular commissions, which are not being delayed any longer due to the sale of the company. *Id.* at 2:11-13. He has also started receiving Social Security. *Id.* at 2:14. According to the Debtor, this will allow him to modify his plan for the benefit of his creditors and in order to correct the mortgage arrearage on his home. *Id.* at 2:14-16. The Debtor promises to file a modified plan, amended schedules, and a motion to confirm the modified plan prior to the hearing of this motion. *Id.* at 2:17-19.

DISCUSSION

No Plan Payments Made

Trustee asserts Debtors did not commence making plan payments and are \$7,896.00 delinquent in plan payments, which represents multiple months of the \$3,948.00 plan payment. Mot. to Dismiss 1:25-26, Docket 20. However, Debtors assert they have paid \$8,100 into the Plan to date.

At the hearing, **XXXXXXX** .

Delinquent

Debtors are \$7,896.00 delinquent in plan payments, which represents multiple months of the \$3,948.00 plan payment. Mot. to Dismiss 1:25-26, Docket 20. 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).

Here, Debtors assert there will be a Modified Plan and Motion to Confirm with supporting evidence on the Docket before this hearing. A review of the Docket on July 1, 2024 reveals that no such pleadings have been filed.

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**.

22. [21-23343-E-13](#)
[DPC-2](#)

MAHAGONY BONAFIDE
Mikalah Liviakis

MOTION TO DISMISS CASE
5-15-24 [83]

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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 15, 2024. Proof of Service 2:4-5, Docket 86. 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).

<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, Mahagony Bonafide (“Debtor”), is delinquent \$5,067.10 in plan payments. Debtor will need to have paid \$10,378.24 to become current by the hearing date. Mot. to Dismiss 1:19-21, Docket 83.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 85.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 26, 2024. Dockets 87, 88. Debtor explains that she was required to pay tax refunds over \$2,000.00 in her plan. Thus, in order for the Debtor to cure the default in her plan payments, she needed to pay \$10,378.24 into her Chapter 13 Plan prior to the date of the hearing on this Motion to Dismiss. Opp’n 1:27-2:1, Docket 87. The Debtor states that she has

tendered her tax refunds into her Plan and has cured the default in her payments, except about \$68.00. *Id.* at 2:1-2.

According to the Debtor, she paid \$10,311.00 to the Chapter 13 Trustee. However, \$10,378.24 was needed to cure the default in the Plan. *Id.* at 2:2-3. Debtor promises to pay the \$68 prior to the hearing date on this Motion to Dismiss as evidenced by Debtor's Declaration that was filed concurrently with this Response. Decl., Docket 88. Debtor would like to remain in her Chapter 13 Plan and claims to have the ability to make her Chapter 13 payments and complete her Chapter 13 Plan. Opp'n 2:7-8, Docket 87.

DISCUSSION

Delinquent

Debtor is \$5,067 delinquent in plan payments, which represents multiple months of the \$2,655.57 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:19-20, Docket 83. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtor has explained she has paid almost the entire delinquent amount, and will tender the final \$68 before 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 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—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on June 11, 2024. By the court's calculation, 29 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 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, Carlos Palacios-Cazares ("Debtor"), is delinquent \$680.00 in plan payments. Mot. 1:25, Docket 108.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 110.

DEBTOR'S RESPONSE

On July 1, 2024, Debtor filed a late written Opposition with a supporting Declaration. Dockets 114, 115. Debtor states he will be current prior to the hearing date, asking the court not to dismiss after having been in bankruptcy for so long now. Decl. ¶ 4, Docket 25.

DISCUSSION

Delinquent

Debtor is \$2,212.00 delinquent in plan payments, which represents multiple months of the \$270 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).

Here, Debtor states he will become current and cure the delinquency by the hearing date.

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.

24. 23-22845 -E-13 DPC-1	GEORGENE HICKS AND RICARDO ESPARZA Peter Macaluso	MOTION TO DISMISS CASE 5-15-24 [130]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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, parties requesting special notice, and Office of the United States Trustee on May 15, 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, Georgene Francis Hicks and Ricardo Esparza, Jr. (“Debtor”), is delinquent \$12,600.00 in plan payments. Mot. 1:25-2:4.
2. Unreasonable Delay. Two orders exist that prevent the Trustee from distributing significant funds to creditors, (Docket 72, 116), due to the foreclosure of the Debtor’s house, so the Trustee has been ordered to hold monies that under the plan would be paid to Debtor’s mortgages. While the Trustee believes the sale was rescinded on 03/15/2024, the Trustee has not received any notice of motions or adversary proceedings filed by the Debtor to resolve this issue to date. The Trustee currently holds \$42,512.20 for these creditors. *Id.* at 2:5-13.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 132.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 26, 2024. Dockets 134, 135. Debtor does not dispute the delinquency and states a Modified Plan will be served before the hearing. Resp. 2:13-14, Docket 134. Debtor states there will be no further delay in getting the monies disbursed to the creditor in this case, as now the sale has been rescinded. *Id.* at 2:21-22.

DISCUSSION

Delinquent

Debtor is \$12,600.00 delinquent in plan payments, which represents multiple months of the \$6,900.00 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).

Here, Debtor asserts they will get a Modified on Plan file before the hearing. A review of the docket reveals they have not yet filed a Modified Plan. Moreover, what money Trustee has on hand cannot be distributed due to the court’s Order issued on February 4, 2024, stating:

IT IS ORDERED that the Chapter 13 Trustee is authorized to hold all plan payments listed in Class 1 for the creditor identified as Select Portfolio Servicing and listed in Class 2A for the creditor identified as US Bank, National Association, pending further order of the court.

These monies are held as an adequate protection fund for the actual creditors, if any, holding such claims. Such determination may require an adversary proceeding to determine the respective rights, interest, and title in the 109 Moylan Court, Folsom, California, property.

Docket 116. Debtor has not initiated any proceeding to disburse these funds, which is unreasonable delay that is prejudicial to creditors. Debtor states now they will move forward, the sale being rescinded. No evidence of moving forward with payments has been presented to 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 **XXXXXXX**.

25. 22-23246-E-13 DPC-4	TAMANY RESOVICH Matthew Gilbert	MOTION TO DISMISS CASE 5-10-24 [84]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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, Tamany Erin Resovich (“Debtor”), is delinquent \$3,100.00 in plan payments. Mot. 1:25, Docket 84.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket86.

DEBTOR'S RESPONSE

Debtor filed a Declaration and supporting Exhibits on June 26, 2024. Docket90, 91. Debtor states the delinquency has been mostly cured, and the remaining \$1,900 delinquency will be paid prior to the hearing. Dec. 2:19-22, Docket 90.

DISCUSSION

Delinquent

Debtor is \$3,100.00 delinquent in plan payments, which represents one month / multiple months of the \$1,550.00 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).

However, here, Debtor has shown that the delinquency has been partly cured and testifies the remainder will be cured prior to the hearing.

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 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—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on June 10, 2024. 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, Kimberly Ann Smith ("Debtor"), is delinquent \$420 in plan payments. Debtor will need to have paid \$630 to become current by the hearing date. Mot. 1:25-27, Docket 28,

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket30.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on June 24, 2024. Dockets 32, 33. Debtor states the delinquency will be cured prior to the hearing date, having fell behind due to unforeseen bills. Decl. ¶¶ 2-3, Docket 33.

DISCUSSION

Delinquent

Debtor is \$420 delinquent in plan payments, which represents multiple months of the \$210 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, here, Debtor has testified that the delinquency will be cured prior to the hearing.

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**.

27. [24-22050](#)-E-13

JOSE GARCIA
Peter Macaluso

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-18-24 [\[34\]](#)**

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, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 19, 2024. The court computes that 21 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$79 due on June 13, 2024.

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

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

28. [18-25851](#)-E-13
[DPC](#)-7

ROBERT HUNTER
Peter Macaluso

**CONTINUED MOTION TO DISMISS
CASE
5-8-23 [163]**

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 8, 2023. By the court's calculation, 44 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 granted and the Bankruptcy Case is dismissed.</p>
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July 2, 2024 Hearing

At the hearing held on May 1, 2024, counsel for the Debtor stated that the reverse mortgage has been approved and will be funding shortly. That will allow Debtor to fund the Plan in full. The Trustee concurred with the request for a continuance.

The court granted relief from stay to Creditor Nissan Motor Acceptance Company, LLC, on May 9, 2024. Docket 246.

On July 2, 2024, Debtor filed a Status Statement Pursuant to Opposition to Motion to Dismiss. Dckt. 247. Debtor states that he has funded the Plan with \$98,017.09 over the last 69 months, and that Debtor has been delayed in obtaining the reverse mortgage because of "title fraud" and a cloud on the title to his real property. Dckt. 247. The court entered Judgments removing the clouds on title on December 13,

2023. 22-2088; Judgment, Dckt. 57; and 22-2087; Judgment, Dckt. 59. These judgments were entered seven (7) months prior to the July 10, 2024 continued hearing on the Motion to Dismiss.

Debtor states that he now wants to sell the Property, rather than obtaining a reverse mortgage, and to either deny this Motion based on Debtor now saying he would sell the Property, or to continuing the hearing on the Motion to Dismiss for sixty (60) days.

The court's review of the Docket on July 7, 2024, discloses that Debtor has not filed an ex parte motion to hire a real estate broker, notwithstanding his stated decision to sell the Property.

Debtor's confirmed Modified Plan requires that a lump sum payment of \$9,000.00, the funds obtained through a reverse mortgage, be paid into the Plan by April 1, 2024. Mod. Plan, Additional Provisions; Dckt. 208.

In Debtor's Status Report, Debtor states that he will no longer perform the confirmed Modified Plan, but instead will pursuant a non-plan sale of the Property and pay creditors outside of bankruptcy.

Debtor stating that the Plan will not be performed, the deadline for the final lump sum payment having been past, and Debtor now pursuing an extra-Plan marketing sale of the Property and paying creditors outside of bankruptcy, the Motion is granted and the Bankruptcy Case is dismissed.

REVIEW OF THE MOTION

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

1. The debtor, Robert Paul Hunter ("Debtor"), is delinquent in Plan payments.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on June 7, 2023. Dckt. 167. Debtor states there are two adversary proceedings, Case No.'s 22-02087 and 22-02088, and they have motions for entry of default judgment for both the adversaries. Debtor expects the default judgment will allow them to avoid two deeds of trust and obtain a reverse mortgage to pay off the Plan. Declaration, Dckt. 168.

Debtor requests that the Trustee's motion be denied or, in the alternative, continued for sixty (60) days to allow for resolution of the adversary proceedings.

DISCUSSION

Delinquent in Plan Payments

Debtor is \$4,172.00 delinquent in plan payments, which represents multiple months of the \$1,900.00 plan payment. 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.

However, Debtor asserts that if they avoid the two deeds of trust subject to the adversary proceeding, they can obtain a reverse mortgage to complete the Plan. Debtor asserts the hearings on their Motions for Entry of Default Judgment are set for August 24, 2023. Upon review of the adversaries' dockets, no motions for entry of default judgment have been filed or set for hearing.

REQUEST FOR CONTINUANCE

On August 20, 2023, Debtor filed a request for continuance, as Debtor's Counsel was out of town and unavailable to attend the August 24, 2023 hearing. The court construes the document to be an *Ex Parte Motion* (as required by Fed. R. Bankr. P. 9013) to continue the hearing.

Upon consideration of the *Ex Parte Motion*, the court continues the hearing on the Motion to Dismiss to September 21, 2023 at 11:00 a.m.

The court has further continued the hearing to October 18, 2023 at 9:00 a.m. pursuant to prior order of this court (Order, Dckt. 176).

October 18, 2023 Hearing

The continued hearings on the Motions for Entry of Judgment in the two Adversary Proceedings are scheduled for November 2, 2023.

November 29, 2023 Hearing

On November 9, 2023, the court entered its orders in *Hunter v. Peachtree Group Trust*, 22-2088, and *Hunter v. Fillmore Group Trust*, 22-2087, granting the motions for entry of default judgments determining that the respective deeds of trust were of no legal force and effect.

The Debtor had previously lodged two proposed judgments with the court, and then included two additional proposed judgments with the latest versions of the Motions for Entry of Default Judgment. The court noted that the various forms contained slight differences, some of which could be attributed to clerical errors, or possibly a substantive difference. Some conflicts were created in language used.

Though the court attempted to craft two judgements, in light of the "particularity" of title companies and the Debtor's need to get good clean judgments and clear title, the court requests that counsel for the Debtor prepare two final, clear, parallel language judgments for the two adversary proceedings, confirm that such are sufficient for title companies, and lodge such proposed judgments with the court.

At the hearing, the Trustee concurred that the hearing may be continued.

January 17, 2024 Hearing

The Court has now entered the judgments which have removed the two deeds of trust from the Debtor's property.

At the hearing, counsel for the Debtor reported that the reverse mortgage is taking longer than anticipated. Additionally, given the age of the case modification of the Plan is not a feasible alternative.

Counsel requested a continuance so that he could meet further with Debtor so they can make a final decision of whether this case will be converted to one under Chapter 7 or dismissed.

The Trustee concurred with the request for a final continuance to allow Debtor's counsel to communicate further with Debtor.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on February 21, 2024, one final time to afford Debtor and Debtor's counsel afford time for them to decide whether this case should be converted to Chapter 7 or dismissed.

February 21, 2024 Hearing

The Debtor has filed a proposed Third Modified Plan, and Motion to Confirm with supporting pleadings on February 13, 2024. Dckts. 205 -209. Debtor has also filed a Motion for Authorization to obtain a reverse mortgage. Dckts. 200 - 204.

At the hearing, counsel for the Trustee concurred with the Debtor's request for a further continuance to work out the final funding of this Plan.

March 26, 2024 Hearing

The court continued this hearing to be heard in conjunction with Debtor's Motion to Modify after the court granted Debtor's Motion to Obtain a Reverse Mortgage. Order, Docket 218. A review of the Docket on March 18, 2024 reveals that no new documents have been filed under this docket control number.

At the hearing, though agreeing to confirmation of the Plan, the Trustee requested that this hearing be continued pending Debtor's performance of the Plan and making the required lump sum payment.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on May 1, 2024.

May 1, 2024 Hearing

The court continued this hearing to the March 26, 2024 calendar to be heard in conjunction with Debtor's Motion to Modify after the court granted Debtor's Motion to Obtain a Reverse Mortgage. Order, Docket 218.

The court continued the hearing further to April 24, 2024 because, though agreeing to confirmation of the Plan, the Trustee requested that this hearing be continued pending Debtor's performance of the Plan and making the required lump sum payment. A review of the Docket on April 24, 2024 reveals that no new documents have been filed under this docket control number.

The hearing on the Motion to Dismiss was continued to 9:00 a.m. on July 10, 2024.

Counsel for the Debtor did not oppose the request for a continuance.

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.

29. [23-20751](#)-E-13
[DPC-1](#)

FLYNN JEMERSON
Matthew DeCaminada

MOTION TO DISMISS CASE
5-15-24 [36]

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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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, Flynn Earl Jemerson (“Debtor”), is delinquent \$1,350.00 in plan payments. Debtor will need to have paid \$2,700.00 to become current by the hearing date. Mot. 1:19-22, Docket 36.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket38.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 26, 2024. Dockets 40, 41. Debtor states the delinquency came about due to unexpected expenses related to home repairs. Resp. ¶ 5, Docket 41. Debtor's attorney plans to file a Modified Plan to address the delinquency.

DISCUSSION

Delinquent

Debtor is \$1,350.00 delinquent in plan payments, which represents multiple months of the \$675.00 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).

Here, Debtor indicates he will address the delinquency through a new Plan. A review of the Docket reveals no Modified Plan has yet been filed.

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.

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, Debtor's Attorney, and Office of the United States Trustee on April 8, 2024. By the court's calculation, 23 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.

The Motion to Dismiss is XXXXXXX.

July 2, 2024 Hearing

At the hearing held on May 1, 2024, counsel for the Trustee reported that the delinquency has risen to \$2,200. However, counsel for the Debtor reported that a Modified Plan and Motion to Confirm are being filed to address the defaults. The Trustee concurred with the request for a continuance.

A review of the Docket on July 1, 2024 reveals that no new Plan has been filed. At the hearing,
XXXXXXX

REVIEW OF THE MOTION

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

1. The debtor, James Duncan Robertson and Noreen Helen Robertson ("Debtor"), is delinquent \$1,650 in plan payments. Motion, Docket 45 ¶ 1.

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

DISCUSSION

Delinquent

Debtor is \$1,650 delinquent in plan payments, which represents multiple months of the \$550 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).

The hearing on the Motion to Dismiss was continued to 9:00a m. on July 10, 2024.

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, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court's calculation, 61 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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, George Campbell Pence and Dolores Mary Pence ("Debtor"), is delinquent \$5,938.00 in plan payments. Mot. 1:26-27, Docket 68.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 70.

DISCUSSION

Delinquent

Debtor is \$5,938.00 delinquent in plan payments, which represents multiple months of the \$743 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 Dolores Pence recently passed away with Debtor George Pence also needing support, having Nichole V. Archuleta substituted in the case for both Debtors. *See* Order, Docket 67. The court and parties have been trying to find a way to bring this case to completion despite the hurdles.

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**.

32. [24-21762-E-13](#)
[LC-1](#)

LINDA CATRON
Pro Se

NOTICE OF INTENT TO DISMISS
4-29-24 [3]

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 Notice of Intent to Dismiss was served by the Clerk of the Court on Debtor (*pro se*), Department of the Treasury, IRS, creditors, and Chapter 13 Trustee as stated on the Certificate of Service on May 2, 2024. The court computes that 69 days’ notice has been provided.

The Order to Show Cause is XXXXXXX .

On May 1, 2023, the court issued a Notice of Intent to Dismiss based on Debtor’s failure to timely file the following documents:

Chapter 13 Plan
Form 122C-1 Statement of Monthly Income
Schedule A/B - Real and Personal Property
Schedule C - Exempt Property
Schedule D - Secured Creditors
Schedule E/F - Unsecured Claims
Schedule G - Executory Contracts
Schedule H - Codebtors
Schedule I - Current Income

Schedule J - Current Expend.
Statement of Financial Affairs
Summary of Assets and Liabilities

Notice of Intent to Dismiss, Docket 9.

On May 13, 2024, Debtor submitted a Response. Docket 11. She states she had a family death that is causing her to request an extension to file documents. She also informs the court she is meeting with attorney Peter Macaluso about representation.

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 Notice of Intent to Dismiss 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 Notice of Intent 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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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.

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, Carol Ann Anglin (“Debtor”), is delinquent \$3,197.00 in plan payments. Debtor will need to have paid \$9,591.00 to become current by the hearing date. Mot. 1:19-22, Docket 65.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 67.

DEBTOR’S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 70. Debtor states the Plan and case is at the end of the term. Debtor is delinquent, but Debtor may be able to make the final payment with help from her son and social security.

DISCUSSION

Delinquent

Debtor is \$3,197.00 delinquent in plan payments, which represents one month of the \$3,197.00 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).

Here, Debtor hopes to make the final payment and complete the 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**.

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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court's calculation, 57 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, Bonnie Sue Pyeatt ("Debtor"), is delinquent \$836.00 in plan payments. Debtor will need to have paid \$1,608.00 to become current by the hearing date. Mot. 1:19-22, Docket 64.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 66.

DEBTOR'S RESPONSE

Delinquent

Debtor is \$836.00 delinquent in plan payments, which represents multiple months of the \$386.00 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).

Here, Debtor argues that she is going to fully cure the delinquency a few days before the hearing.

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 denied without prejudice.

35. [23-22666-E-13](#) **MANUEL MARAVILLA** **MOTION TO DISMISS CASE**
[DPC-3](#) **Chad Johnson** **6-10-24 [58]**

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, parties requesting special notice, and Office of the United States Trustee on June 10, 2024. 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 denied without prejudice.

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

1. The debtor, Manuel Maravilla (“Debtor”), is delinquent \$3,362.00 in plan payments. Mot. 1L25-26, Docket 58.

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

DEBTOR'S RESPONSE

Debtor filed a Response and supporting declaration and Exhibits on June 24, 2024. Dockets 62-64. Debtor states the delinquency is in the process of being cured through TFS payments, and Debtor requests the court call the matter to update the court on the status of these payments.

DISCUSSION

Delinquent

Debtor is \$3,362.00 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).

Here, Debtor asserts and provides evidence that 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 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—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court's calculation, 57 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, Ginger Rose Wright and Valitino Navaille Wright ("Debtor"), is delinquent \$450.00 in plan payments. Debtor will need to have paid \$900 to become current by the hearing date. Mot. 1:19-22, Docket 48.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket50.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting declaration and Exhibits on June 26, 2024. Dockets 52-54. Debtor provides evidence of payments and testifies the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$450.00 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).

Here, debtor testifies they have made payments to 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 denied without prejudice.

37. 24-20171-E-13 DPC-2	WILLIAM SPAULDING Michael Hays	MOTION TO DISMISS CASE 6-12-24 [35]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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, parties requesting special notice, and Office of the United States Trustee on June 12, 2024. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

<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, William Harrison Spaulding (“Debtor”), is delinquent \$14,891.08 in plan payments. Mot. 1:23-24, Docket 35.
2. Debtor has failed to file an amended Plan and set it for confirmation after this court sustained Trustee’s Objection to the prior Plan on March 26, 2024. *Id.* at 2:3-6, docket 35.

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

DEBTOR'S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 39. Debtor apologizes for the delinquency, explains it is difficult to receive income from his rental units at this time, and is not sure he can oppose this Motion.

DISCUSSION

Delinquent

Debtor is \$14,891.08 delinquent in plan payments, which represents multiple months of the \$4,635.77 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 26, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. 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, parties requesting special notice, and Office of the United States Trustee on June 12, 2024. By the court's calculation, 28 days' notice was provided. 28 days' notice is required.

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

~~The Motion to Dismiss is granted and this Bankruptcy Case is dismissed.~~

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

1. The debtor, Michael Joe Marasco and Susan Diane Marasco ("Debtor"), has not filed a Motion to Confirm with their Plan that was filed on May 4, 2024. This results in unreasonable delay that is prejudicial to creditors. Mot. 1:21-2:2, Docket 62.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 64.

DISCUSSION

Delay of Confirmation

Trustee seeks dismissal because Debtor did not file a Motion to Confirm their Plan that was filed on May 4, 2024. A review of the docket shows that Debtor has since filed an Amended Plan and corresponding Motion to Confirm on June 20, 2024. Dockets 68-71.

Plan and Motion to Confirm Filed

Debtor has filed a Second Amended Plan (Dckt. 68) and Motion to Confirm (Dckt. 71) to address the defaults. Debtor's Motion to Confirm is just a Notice of Motion with the proposed plan attached as an exhibit. Dckt. 71. This fails to comply with the basic pleading requirements of Federal Rule of Bankruptcy Procedure 9013 that requires the grounds upon which the relief request is based be stated with particularity.

No declaration is filed in support of the "Motion" to Confirm, rendering the proposed Plan non-confirmable.

This Bankruptcy Case was commenced on November 21, 2023, as a Chapter 7 Case. Dckt. 1. Debtor was represented by their current counsel in filing the Chapter 7 Case. This Case was converted by Debtor to one under Chapter 13 on April 9, 2024. Order; Dckt. 45.

From the court's review of the pleadings filed in this Case, it does not appear that Debtor can effectively or successfully prosecute this Case, confirm a Plan, and then perform the Plan.

~~Cause having been shown, the Motion is granted and this Bankruptcy 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 this 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, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 10, 2024. The court computes that 61 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on May 6, 2024.

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

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

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

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

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

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. 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, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 11, 2024. The court computes that 29 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on June 3, 2024.

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

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

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

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

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

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

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

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, Debtor’s Attorney, and Office of the United States Trustee on June 221, 2024. By the court’s calculation, 19 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 -----.

<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, Gustavo Lomeli Ortega (“Debtor”), is delinquent \$7,200 in plan payments. Debtor never commenced making plan payments. Mot. 1:25-2:5, Docket 42.
2. Debtor admitted at the continued Meeting of Creditors held on June 13, 2024 that he has not filed tax returns for 2020 and 2023. On April 18, 2024, the Franchise Tax Board filed a Proof of Claim reflecting no tax returns filed for 2020, 2021, 2022 and 2023. *Id.* at 2:6-11.
3. Debtor has failed to propose an Amended Plan after this court sustained Trustee’s Objection to the previous Plan on May 21, 2024. *Id.* at 2:12-14.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 44.

DISCUSSION

Delinquent

Debtor is \$7,200 delinquent in plan payments, which represents multiple months of the \$3,600 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).

Failure to File Tax Returns

Debtor admitted at the Meeting of Creditors that the federal income tax return for the 2020 and 2023 tax years have not been filed still, and the Franchise Tax Board indicates no tax returns filed for 2020, 2021, 2022 and 2023. Filing of the return is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is a ground to dismiss the case. 11 U.S.C. § 1307(e).

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 21, 2024. 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.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, persons who have filed a Request for Notice, and Office of the United States Trustee on May 14, 2024. Proof of Service 2:4-5, Docket 26. By the court's calculation, 57 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 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, Francisco Javier Garcia Chavez ("Debtor"), is delinquent \$4,550.00 in plan payments. Debtor will need to have paid \$9,050.00 to become current by the hearing date. Mot. to Dismiss 1:19-21, Docket 23.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 25.

DEBTOR'S RESPONSE

Debtor filed a late Response and accompanying Declaration on July 1, 2024. Dockets 27, 28. Debtor testifies the payments have been made, bringing the Plan current. Decl. ¶¶ 4-8, Docket 28.

DISCUSSION

Delinquent

Debtor is \$4,550.00 delinquent in plan payments, which represents multiple months of the \$2,250.00 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:19-21, Docket 23. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtor has stated the delinquency has been cured. At the hearing, **XXXXXXX**

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

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

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

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

43. [23-24588](#)-E-13 **WENDI/MELISSA PRYDE** **MOTION TO DISMISS CASE**
[DPC-2](#) **Stephan Brown** **5-6-24 [27]**

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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 6, 2024. Proof of Service 2:4-5, Docket 30. By the court’s calculation, 65 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. No plan pending. The Trustee objected to confirmation of the Debtors’ original Plan, which was sustained at the hearing on February 27, 2024. Order re: Obj. to Confirmation, Docket 22. The Debtors have failed to file an amended Plan and set it for confirmation. Mot. To Dismiss, 1:25-26, Docket 27.
2. Best interest of creditors. According to the Trustee’s records, there is \$0.00 in non-exempt equity in the assets listed on Schedules A/ B. *Id.* at 2:1-2.

Because there is no non exempt equity to be realized in the event of a conversion to a Chapter 7, the Trustee believes that conversion to a Chapter 7 is not in the best interest of creditors or the estate. *Id.* at 2:2-4. According to the Trustee's records, this case has not previously been converted from another chapter. *Id.* at 2:5.

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

DEBTORS' RESPONSE

Debtors filed a Response on June 26, 2024. Opp'n, Docket 34. In their opposition to the Motion to Dismiss, Debtors state the following:

1. Debtors filed an amendment on June 25, 2024, to Form 122C-1 Currently Monthly Income removing the student loan expense on line 43. Docket 31.
2. Debtors filed an amendment on June 25, 2024, to Schedule J removing the student loan expense in the amount of \$811.00. Docket 32.
3. Debtors will file a Motion to Confirm First Amended Plan prior to the hearing on July 10, 2024. Opp'n 2:1-2, Docket 34.

DISCUSSION

No Pending Plan

Debtors did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtors' prior plan on February 27, 2024. Order re: Obj. to Confirmation, Docket 22. A review of the docket shows that Debtors have not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, in their opposition to the Motion to Dismiss, Debtors promise to file a Motion to Confirm First Amended Plan prior to the hearing on July 10, 2024. Opp'n 2:1-2, Docket 34.

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** .

44 thru 47

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 (*pro se*), parties requesting special service, and Office of the United States Trustee on May 8, 2024. By the court's calculation, 63 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 (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<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, Jasmine Gaines ("Debtor"), is delinquent \$200.00 in plan payments. Debtor will need to have paid \$600.00 to become current by the hearing date. Debtor has made no Plan payments. Mot. 1:24-2:2, Docket 47.
2. Debtor failed to appear at first meeting of Creditors. Mot. 1:24-2:2, Docket 47. Mot. 2:3-7, Docket 47.
3. Debtor has not provided picture identification or social security number. Mot. 2:8-14, Docket 47.
4. Debtor has not provided Trustee with pay advices or tax returns. Mot. 2:15-26, Docket 47.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 49.

DISCUSSION

No Plan Payments Made / Failed to Commence Plan Payments

Debtor did not commence making plan payments and is \$200.00 delinquent in plan payments, which represents one month of the \$200.00 plan payment. Before the hearing, another two plan payments 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.

Failed to Appear at § 341 Meeting of Creditors

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

Alternatively, if Debtor's case is not dismissed, Trustee requests that the deadline to object to Debtor's discharge and the deadline to file motions for abuse, other than presumed abuse, be extended to sixty days after the date of Debtor's next scheduled Meeting of Creditors, which is set for 2:00 P.M. on July 25, 2024. If Debtor fails to appear at the continued Meeting of Creditors, Trustee requests that the case be dismissed without further hearing. Status Report 1:22-2:1, Docket 55.

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).

Failure to Provide Social Security Number

Debtor has not provided Trustee with proof of a Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Prior Bankruptcy Cases

Debtor has filed and had dismissed two prior Chapter 13 Cases in the year prior to the filing of this Case. Debtor, in *pro se*, commenced Chapter 13 Case 23-24424 on December 11, 2023, which case was dismissed on December 29, 2023. Debtor, in *pro se*, commenced the second Chapter 13 Case, 24-20277, on January 24, 2024, which was dismissed on February 12, 2024.

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.

45. [24-20888](#)-E-13

JASMINE GAINES
Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
5-24-24 [51]

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 May 25, 2024. The court computes that 46 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78 due on May 20, 2024.

<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: \$78.

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

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

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

IT IS ORDERED that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. 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, 2024. The court computes that 15 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on June 18, 2024.

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

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

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

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

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

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

Final Ruling

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), and Chapter 13 Trustee as stated on the Certificate of Service on April 25, 2024. The court computes that 76 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79 due on April 19, 2024.

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

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

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

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

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

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

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 Debtors, Debtors' Attorney, parties requesting special notice, and Office of the United States Trustee on May 17, 2024. By the court's calculation, 54 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 debtors, Kevin Jeffrey Macy and Kristy Ann Macy ("Debtors"), are delinquent \$1,761.54 in plan payments. Debtors will need to have paid \$5,016.06 to become current by the hearing date. Mot. 1:18-23, Docket 150.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 152.

DEBTOR'S RESPONSE

Debtors filed an Opposition on June 25, 2024. Opp'n, Docket 154. Debtors state the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtors are \$1,761.54 delinquent in plan payments, which represents slightly more than one month of the \$1,627.26 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).

Here, Debtor states they will become current by 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**.

49. 24-20391 -E-13 DPC-2	TERENCE CLARK / KIRSTEN WASHINGTON-CLARK Paul Bains	MOTION TO DISMISS CASE 5-14-24 [37]
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter.

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, Parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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 debtors, Terence Scott Clark and Kirsten Felita Washington-Clark (“Debtors”), are delinquent \$3,590.00 in plan payments. Debtors will need to have paid \$7,771.92 to become current by the hearing date. Mot. 1:17-23, 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 26, 2024. Resp., Docket 41. Debtor states the delinquency will be cured prior to the hearing date and submitted a TFS Bill Pay screen capture. Ex., Docket 43.

DISCUSSION

Delinquent

Debtors are \$3,590.00 delinquent in plan payments, which represents more than one month of the \$2,090.96 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 the delinquency has been cured. At the hearing,

XXXXXXX

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

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

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

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

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

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, persons who have filed a Request for Notice, and Office of the United States Trustee on June 5, 2024. By the court's calculation, 35 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, Amanda Wilson ("Debtor"), filed a Motion to Confirm an Amended Plan that was denied by the court on November 22, 2023. The Debtor has failed to file an amended Plan and set for confirmation. Mot. 1:23-25, Docket 67.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 43.

DEBTOR'S RESPONSE

Debtor's attorney, Catherine King, filed a Declaration on June 24, 2024. Docket 71. She was informed in a phone conversation with Debtor's nephew, Tyler Wilson, that Debtor has been in the hospital and therefore, had not received phone messages nor letters inquiring about the status of performing her proposed amended plan. *Id.* at 1:22-26. Tyler Wilson has both Health and Financial Power of attorney for Debtor herein and has verified both with Debtor's attorney's office. *Id.* Accordingly, he has authority to speak on behalf of debtor concerning her financial matters. *Id.*

Debtor's attorney Catherine King spoke to Tyler Wilson and he indicated that he has been speaking with the Debtor and they agreed and he had authority to communicate her wishes and thus, in light of her current serious health issues, she would like to sell the real property thereby not losing the equity in the home. *Id.* at 1:27-2:2. This would enable her to relocate to a location where she can better manage her health and complete her Chapter 13 plan. *Id.* at 2:2-3. Debtor's attorney states that a third amended plan to

said effect and related motion shall be filed before the hearing on the trustee's motion to dismiss. *Id.* at 2:4-5. However, a review of the Docket on July 3, 2024 reveals that no such pleadings have been filed.

DISCUSSION

No Pending Plan

Debtor's Motion to Confirm Amended Plan (Docket 48) was denied by the Court on April 23, 2024. Mot. 1:23-25, Docket 67. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). However, the Debtor's attorney explained that Debtor has been in the hospital and unable to respond to any inquiries. Decl., Docket 71 at 1:22-26.

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—Tentative Hearing.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, persons who have filed a Request for Notice, and Office of the United States Trustee on May 10, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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 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 debtors, Christopher Chang and Alison Hoyer (“Debtors”), are delinquent \$1,942.00 in plan payments. Debtor will need to have paid \$1,942.00 to become current by the hearing date Mot. 1:27-2:2, Docket 50.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 52.

DISCUSSION

Delinquent

Debtor is \$1,942.00 delinquent in plan payments, which represents multiple months of the \$971.00 plan payment. Mot. 1:27-2:2, Docket 50. 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.

52. [20-22397](#)-E-13
[DPC-3](#)

CRAIG WEBBER
Candace Brooks

MOTION TO DISMISS CASE
5-14-24 [60]

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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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 Webber (“Debtor”), is delinquent \$3,720.00 in plan payments. Debtor will need to have paid \$10,820.00 to become current by the hearing date. Mot. 1:19-22, Docket 60.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 62.

DEBTOR’S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 64. Debtor admits to the delinquency, but asks the court that Debtor be allowed time to file a modified Chapter 13 plan. *Id.* at 2:9-10. The Debtor explains that he has been struggling to make his plan payment after he was laid off from his job in Sacramento and had to take a job out of state. *Id.* at 1:28-2:2. He also had some unanticipated expenses as evidenced By Debtor's Declaration that was filed concurrently with this Response. *Id.*; *see* Decl., Docket 65. Debtor is not able to cure the entire default and will need to file a modified Chapter 13 plan. Opp'n 2:3-4, Docket 64. The Debtor promises to file a modified plan prior to the hearing of this motion. Decl. 1:28-2:1, Docket 65.

DISCUSSION

Delinquent

Debtor is \$3,720.00 delinquent in plan payments, which represents multiple months of the \$3,550.00 plan payment. Mot. 1:19-22, Docket 60. Before the hearing, another two plan payments will be due. *Id.* Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Here, Debtors assert there will be a Modified Plan with supporting evidence on the Docket before this hearing. A review of the Docket on July 3, 2024 reveals that no such pleadings have been filed.

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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 10, 2024. By the court's calculation, 61 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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, Angello Austin and Donna Austin ("Debtors"), are delinquent \$148.00 in plan payments. Debtors will need to have paid \$296.00 to become current by the hearing date. Mot. 1:25-28, Docket 61; *see* Opp'n 20-22, Docket 65.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 63.

DEBTOR'S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 65. Debtor's attorney states that the \$296.00 required to make the plan current was posted with the Trustee on May 21, 2024. *Id.* at 22-24. However, no supporting Declaration was filed to support this.

DISCUSSION

Delinquent

Debtor is \$148.00 delinquent in plan payments, which represents multiple months of the \$74.00 plan payment. Mot. 1:25-28, Docket 61. Before the hearing, another two plan payments will be due. *Id.* Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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**.

54. [24-21498-E-13](#) **MICHAEL/SUSAN COLE** **MOTION TO DISMISS CASE**
[DPC-1](#) **Eric Schwab** **6-3-24 [28]**

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, persons who have filed a Request for Notice, and Office of the United States Trustee on June 3, 2024. By the court’s calculation, 37 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 debtors, Michael Cole and Susan Cole (“Debtors”), have paid \$0.00 into the plan to date. This case was filed on April 11, 2024 and the first plan payment was due May 25, 2024. Mot. 1:27-2:3, Docket 28.
2. The Debtor’s Plan was filed on May 9, 2024 and has not been served on all interested parties and no Motion to Confirm Plan is pending. The petition

in this case was filed on April 11, 2024. No plan was filed with the petition. The Trustee caused the Court to issue the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors & Deadlines on April 30, 2024. *Id.* at 2:4-9.

3. The Debtors failed to submit proof of their social security numbers and a copy of a government issued picture identification to the Trustee before the First Meeting of Creditors held on May 23, 2024, as required pursuant to FRBP 4002(b)(1)(A) and (B). The meeting was continued to June 20, 2024, at 2:00 p.m., to give the Debtors sufficient time to provide the verification documents to the Trustee's office. *Id.* at 15-20.
4. Debtors have not provided all business documents requested to the Trustee pursuant 11 U.S.C. 521(e)(2)(A) and FRBP 4002(b)(3). Debtors provided two profit and loss statements for the months of January and February as well as one bank statement for the month of January for account ending in #4918. The Trustee also seeks two years of tax returns, four additional months of profit and loss statements, six months of bank statements, proof of license and insurance or written statements that no such documentation exists. 11 U.S.C. §521(e)(2)(A); FRBP 4002(b)(3). A business questionnaire and request for documents was mailed to Debtors on May 10, 2024. *Id.* at 2:21-3:2.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 30.

DEBTOR'S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 32. Debtors state they have paid their Chapter 13 plan payment. *Id.* at 15. Debtors also state they have supplied Trustee with business documents, payment advices, bank statements, taxes, identification, and Social Security number verification. *Id.* at 16-19. Debtors state they will file the appropriate motion to confirm a Chapter 13 Plan on or before the hearing date. *Id.* at 20-21.

DISCUSSION

Failed to Commence Plan Payments

Debtors did not commence making plan payments and are delinquent in plan payments, which represents the May 25, 2024 and June 25, 2024 payments. Mot. 1:27-2:3, Docket 28. 11 U.S.C. § 1307(c)(4) permits the dismissal or conversion of the case for failure to commence plan payments.

Debtors state that they have paid their Chapter 13 plan payment but do not provide any evidence in support. Opp'n 15, Docket 32.

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. Mot. 2:4-9, Docket 28. Therefore, Debtor must file a motion to confirm the Plan. *See*

LOCAL BANKR. R. 3015-1(c)(3). A confirmation hearing is normally to be held not later than 45 days after the first meeting of creditors unless the court determines it should be held sooner, 11 U.S.C. § 1324. The First Meeting of Creditors was held on May 23, 2024. A review of the docket shows that no such motion has been filed. Mot. 2:10-13, Docket 28. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Social Security Number

Debtor has not provided Trustee with proof of a Social Security Number and a copy of government-issued picture identification to the Trustee before the First Meeting of Creditors held on May 23, 2024, as required pursuant to FRBP 4002(b)(1)(A) and (B). The meeting was continued to June 20, 2024, at 2:00 p.m., to give the Debtors sufficient time to provide the verification documents to the Trustee's office. Mot. 2:14-20, Docket 28. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtors state that they have provided the Trustee with identification and Social Security number verification, but do not provide any evidence in support. Opp'n 16-17, Docket 32.

Failure to File Documents Related to Business

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

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

Mot. 2:23-3:2, Docket 28.

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

Debtors state that they have provided Trustee with business documents required, but do not provide any evidence in support. Opp'n 19, Docket 32.

At the hearing, **XXXXXXX**

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

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

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

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

FINAL RULINGS

55. [23-20001-E-13](#)
[DPC-1](#)

DIANA SAN FILIPPO
Kevin Tang

MOTION TO DISMISS CASE
5-15-24 [\[48\]](#)

Final Ruling: No appearance at the July 10, 2024 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, persons who filed a Request for Notice, and Office of the United States Trustee on May 15, 2024. 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 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, Diana Margarita San Filippo (“Debtor”), is delinquent \$834.00 in plan payments. Debtor will need to have paid \$1,668.00 to become current by the hearing date. Mot. 1:19-21, Docket 48.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 30.

DISCUSSION

Delinquent

Debtor is \$834.00 delinquent in plan payments, which represents multiple months of the \$417.00 plan payment. Mot. 1:18-21, Docket 48. Before the hearing, another two plan payments will be due. *Id.* 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.

Final Ruling: No appearance at the July 10, 2024 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, persons who filed a Request for Notice, and Office of the United States Trustee on May 17, 2024. By the court’s calculation, 54 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, Richard Cruz (“Debtor”), is delinquent \$1,161.00 in plan payments. Debtor will need to have paid \$1,935.00 to become current by the hearing date. Mot. 1:18-21, Docket 67.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 69.

DISCUSSION

Delinquent

Debtor is \$1,161.00 delinquent in plan payments, which represents multiple months of the \$387.00 plan payment. Mot. 1:18-21, Docket 67. Before the hearing, another two plan payments will be due. *Id.* 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.

57. [23-23803-E-13](#) **JAMES/CHRISTINA MATTHEW** **MOTION TO DISMISS CASE**
[DPC-1](#) **Thomas Amberg** **5-31-24 [26]**

Final Ruling: No appearance at the July 10, 2024 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, persons who filed a Request for Notice, and Office of the United States Trustee on May 31, 2024. By the court’s calculation, 40 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 debtors, James Matthew and Christina Matthew (“Debtors”), are delinquent \$7,121.00 in plan payments. The next scheduled payment of \$1,715.00 was due on June 25, 2024 prior to the hearing. Debtors will need to have paid the most recent payment of \$1,715.00 to become current by the hearing date. Mot. 1:25-27, Docket 26.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 28.

DEBTOR'S RESPONSE

Debtors filed a Response on June 25, 2024. Opp'n 1:17-19, Docket 36. Debtors admit to the delinquency, but inform the court that Debtors have filed a Modified Plan and Motion to Confirm the Modified Plan that will cure the delinquency. *See* Modified Plan, Docket 34. That motion will be heard on August 6, 2024. Mot., Docket 30.

DISCUSSION

Delinquent

Debtor is \$7,121.00 delinquent in plan payments, which represents multiple months of the \$1,715.00 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).

Plan and Motion to Confirm Filed

Debtors have filed a Modified Plan (Docket 34) and Motion to Confirm (Docket 30) 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 (Docket 32) states personal knowledge testimony in support of the Motion to Confirm. Supplemental Schedules I and J were filed on June 26, 2024. Dckt. 37.

Given Debtor's active prosecution of confirmation of a Plan, 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 10, 2024 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 xxxx, 202x. By the court’s calculation, xx 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, this Bankruptcy Case having been converted to one under Chapter 7 on July 3, 2024. Ntc. Conv.; Dckt. 74.

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

1. The debtor, Vonziel Harrison (“Debtor”), is delinquent \$600 in plan payments. Debtor will need to have paid \$900 to become current by the hearing date. Mot. 1:25-26, Docket 56.
2. The Plan calls for the sale of real property 1635 Grand Avenue Sacramento (“Property”) by the end of March 2024, and the order confirming provides that at least \$110,000 from the sale would be paid into the Plan. The Trustee has received no funds, believes the property is where Debtor’s business is located, and does not believe the property is even listed for sale. *Id.* at 2:3-8.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 58.

DISCUSSION

Delinquent

Debtor is \$600 delinquent in plan payments, which represents multiple months of the \$300 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). Moreover, in this case, Debtor's Plan calls for a sale of his Property by the end of March 2024, with a large sum of \$110,000 going to creditors from that sale. Plan § 7.01, Docket 12. The sale has not occurred and Trustee has been unable to distribute the funds.

CONVERSION TO CHAPTER 7

This Bankruptcy Case having been converted to one under Chapter 7 on July 3, 2024. Ntc. Conv.; Dckt. 74.

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, this Bankruptcy Case having been converted to one under Chapter 7 on July 3, 2024. Ntc. Conv.; Dckt. 74. Motion to Dismiss is granted, and the case is dismissed.

Final Ruling: No appearance at the July 10, 2024 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 March 19, 2024. 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). 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>
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REVIEW OF THE MOTION

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

1. The debtor, Richard Ravalli and Lisa Ravalli (“Debtor”), has no new Plan pending after this court sustained Trustee’s Objection to the prior Plan on January 9, 2024 at Docket 927. Docket 79 ¶ 1.

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

DEBTOR’S RESPONSE

Debtor filed a Response on April 17, 2024. Docket 34. Debtor informs the court that there will be an Amended Plan on file before this Hearing, and that Debtor’s attorney may be bouncing between courtrooms during the Hearing on this Motion as he has other hearings scheduled at 10:00 a.m.

DISCUSSION

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on January 9, 2024. A review of the Docket on April 23, 2024 shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, Debtor has informed the court that an Amended Plan will be filed before this hearing date.

At the hearing, counsel reported that he has had some family matters that have caused him to not get the new plan and motion on file.

With the concurrence of the Chapter 13 Trustee, the hearing is continued to 9:00 a.m. on July 10, 2024.

July 10, 2024 Hearing

The hearing on this Motion was continued from May 1, 2024, counsel for Debtor having stated an Amended Plan will be on file to address Trustee's concerns. On June 6, 2024, Debtor submitted a Amended Plan, accompanying Motion to Confirm, and supporting evidence. Dockets 39-43.

On July 1, 2024, the Chapter 13 Trustee filed an *Ex Parte* Motion to dismiss this Motion to Dismiss in light of the Debtor's prosecution of an Amended Plan.

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 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 31, 2024. By the court’s calculation, 40 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, Maksim Kondakov and Lyudmila Kondakov (“Debtor”), is delinquent \$2,032.00 in plan payments. Mot. 1:24-26.

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

DISCUSSION

Delinquent

Debtor is \$2,032.00 delinquent in plan payments, which represents multiple months of the \$508 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

61. [23-22813-E-13](#) **JAMES/IRMA WELDON** **MOTION TO DISMISS CASE**
[DPC-2](#) **Candace Brooks** **5-14-24 [60]**

Final Ruling: No appearance at the July 10, 2024 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, 2024. By the court’s calculation, 57 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, James Robert Weldon and Irma Maria Weldon (“Debtor”), is delinquent \$17,330.00 in plan payments. Debtor will need to have paid \$23,550.00 to become current by the hearing date. Mot. 1:19-22, Docket 60.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 62.

DISCUSSION

Delinquent

Debtor is \$17,330 delinquent in plan payments, which represents multiple months of the \$3,110.00 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.

Final Ruling: No appearance at the July 10, 2024 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 May 7, 2024. The court computes that 64 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on May 2, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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).

<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, Michele Louise Davenport (“Debtor”), is delinquent \$1,980.00 in plan payments. Debtor will need to have paid \$6,160.00 to become current by the hearing date. Mot. 1:18-22, Docket 34.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 36.

DEBTOR’S RESPONSE

Debtor filed a Response on June 26, 2024. Docket 39. Debtor states she has filed a first Modified Plan to address the delinquency. *See* Plan, Docket 47. Debtor explains as reason for the delinquency she had surgery in April this year which had some associated medical expenses causing her to be short in plan payments. Decl. 1:20-22, Docket 40. There were also water leakage / bill issues that have now been addressed. *Id.* at 1:23-2:2.

DISCUSSION

Delinquent

Debtor is \$1,980.00 delinquent in plan payments, which represents approximately one month of the \$2,090.00 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).

Plan and Motion to Confirm Filed

Debtor has filed a Modified Plan (Dckt. 47) and Motion to Confirm (Dckt. 42) 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. 45) states personal knowledge testimony in support of the Motion to Confirm. Supplemental Schedules I and J were filed on June 26, 2024. Dckt. 48.

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.

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 denied without prejudice.

Final Ruling: No appearance at the July 10, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*), Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 13, 2024. The court computes that 58 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 May 9, 2024.

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

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

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

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

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

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

DEBTOR DISMISSED: 06/18/24

Final Ruling: No appearance at the July 10, 2024 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 14, 2024. The court computes that 26 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the filing fee installment in the amount of \$79.00.

The Order to Show Cause is discharged as moot, this Bankruptcy Case having been dismissed.

The court having dismissed this bankruptcy case by prior order filed on June 18, 2024 (Docket 22), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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

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

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

IT IS ORDERED that the Order to Show Cause is discharged as moot, and no sanctions are ordered, this Bankruptcy Case having been dismissed.

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 10, 2024. By the court’s calculation, 61 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Angela June Tinsley (“Debtor”), is delinquent \$7,419.38 in plan payments. Mot. 1:25, Docket 38.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 40.

DEBTOR’S RESPONSE

Debtor filed a nonopposition on June 26, 2024. Docket 43. Debtor states she cannot cure the delinquency in this Plan or under any Modified Plan.

DISCUSSION

Delinquent

Debtor is \$7,419.38 delinquent in plan payments, which represents multiple months of the \$4,643.99 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 31, 2024. By the court’s calculation, 40 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>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Krista May Michiels (“Debtor”), is delinquent \$2,212.00 in plan payments. Mot. 1:24-25, Docket 20.

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

No Opposition to the Motion was filed by Debtor.

DISCUSSION

Delinquent

Debtor is \$2,212.00 delinquent in plan payments, which represents multiple months of the \$553.00 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.

68. 24-21332-E-13	RANDY TURNER Candace Brooks	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 5-6-24 [17]
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Final Ruling: No appearance at the July 10, 2024 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 May 6, 2024. The court computes that 65 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 May 1, 2024.

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

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

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

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

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

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

69. 20-20334-E-13 DPC-2	ALEKSANDR/LYUDMILA ANDROSHCHUK Mark Shmorgon	MOTION TO DISMISS CASE 5-15-24 [35]
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Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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 debtors, Aleksandr Androshchuk and Lyudmila Androshchuk (“Debtors”), are delinquent \$2,392.99 in plan payments. Debtors will need to have paid \$6,356.85 to become current by the hearing date. Mot. 1:19-22, Docket 35.

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

DEBTOR’S RESPONSE

Debtors filed a Response and supporting Declaration on May 16, 2024. Dockets 41, 42. Debtors have filed a first modified plan, moving to confirm on July 2, 2024. Dockets 44-48.

DISCUSSION

Delinquent

Debtors are \$2,392.99 delinquent in plan payments, which represents multiple months of the \$1,981.93 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).

Plan and Motion to Confirm Filed

Debtors have filed a Modified Plan (Docket 48) and Motion to Confirm (Docket 44) 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 (Docket 46) states personal knowledge testimony in support of the Motion to Confirm.

However, Trustee has opposed that Motion to Confirm, which the court will hear on July 2, 2024.

On July 3, 2023, the Trustee filed a Motion to Dismiss this Motion, reporting that Debtor is current in the payments and the amended Plan has been confirmed.

The court denies without prejudice this Motion to Dismiss.

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 10, 2024 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, and persons who have filed a Request for Notice on May 14, 2024. Proof of Service 2:4-5, Docket 26. By the court’s calculation, 57 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.

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

<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, Diannia Lindsey (“Debtor”), is delinquent \$1,200.00 in plan payments. Debtor will need to have paid \$2,300.00 to become current by the hearing date. Mot. to Dismiss 1:19-21, Docket 23.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 25.

DEBTOR’S RESPONSE

Debtor filed a Response on May 24, 2024. Docket 34. Debtor states that since the filing of the Trustee’s motion, the Debtor has filed a modified plan, which will be heard on July 2, 2024. Opp’n 1:16-17, Docket 34. That motion is accompanied by a declaration explaining the reason for the Debtor’s monetary default, and it provides evidence to support the Debtor’s ability to make the proposed plan. *Id.* at 1:18-20; Decl., Docket 30.

DISCUSSION

Delinquent

Debtor is \$1,200.00 delinquent in plan payments, which represents multiple months of the \$550.00 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:19-20,

Docket 23. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, since the filing of the Trustee's motion, the Debtor has filed a modified plan, which is accompanied by a declaration explaining that the Debtor's default was caused by a number of health issues that required her to miss work and go on disability. Decl. 1:17-18, Docket 30. Over the course of the last year, she was on limited duty at her job, which caused her to fall behind in her plan payments. *Id.* at 1:18-20. She is still working fewer hours than she was when her plan was filed, however, her new plan payment accounts for her current income. *Id.* at 1:1:20-21. The Debtor proposes a modified plan that cures the delinquency caused by her medical issues and accounts for claims as filed. *Id.* at 1:22-23. The Debtor's modified plan will be heard on July 2, 2024. Opp'n 1:16-17, Docket 34.

The Trustee has filed a nonopposition to the Motion to Confirm the Modified Plan. Dckt. 36.

The Chapter 13 Plan having been modified and set for hearing on July 2, 2024, 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 10, 2024 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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 14, 2024. Proof of Service 2:4-5, Docket 47. By the court’s calculation, 57 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, Edward Harold Lewis (“Debtor”), is delinquent \$1,570.00 in plan payments. Debtor will need to have paid \$4,710.00 to become current by the hearing date. Mot. to Dismiss 1:19-21, Docket 44.

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

DEBTOR’S RESPONSE

Debtor filed a Response on May 22, 2024. Proof of Service 2:4, Docket 49. Debtor states that his Chapter 13 bankruptcy was filed on August 31, 2023. Oppn’n 1:20, Docket 48. The deadline for private creditors to file a claim in this case was November 9, 2023. The deadline for government creditors to file a claim in this case was February 27, 2024. *Id.* at 1:21-22.

In that time frame, only two creditors have filed claims, both of which are unsecured. On September 13, 2023, Discover Bank filed a claim in the amount of \$3,586.65. On September 28, 2023, Franchise Tax Board filed a claim in the amount of \$2,064.55. *Id.* at 1:22-25. To date, the Debtor has paid \$10,990.00 towards his Chapter 13 Plan, which is more than enough to pay 100% of all filed claims along with Trustee fees and Attorney fees. The undersigned has no intent to file a claim on behalf of any creditors. *Id.* at 1:25-27.

DISCUSSION

Delinquent

Debtor is \$1,570.00 delinquent in plan payments, which represents one month of the \$1,570.00 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:19-21, Docket 44. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

However, the Debtor has paid \$10,990.00 towards his Chapter 13 Plan, which the Debtor asserts is more than enough to pay 100% of all filed claims along with Trustee fees and Attorney fees. Opp'n 1:25-27, Docket 48. Debtor has not addressed the asserted delinquency.

On July 3, 2024, the Chapter 13 Trustee filed an ex parte motion to dismiss this Motion to Dismiss, stating that Debtor is current on Plan payments and it appears the Motion to Dismiss was filed in error.

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 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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, Rhonda Faye Roberts (“Debtor”), is delinquent \$2,464.70 in plan payments. Mot. 1:19, Docket 20.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 25.

DEBTOR’S RESPONSE

On June 26, 2024, Debtor filed written Opposition with a supporting Declaration. Dockets 24, 25. Debtor states she will get a Modified Plan on file prior to the hearing date. She asks the court not to dismiss, stating she is committed to repaying her debts. Decl. ¶ 4, Docket 25.

DISCUSSION

Delinquent

Debtor is \$2,212.00 delinquent in plan payments, which represents roughly one month of the \$2,354.90 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).

Here, Debtor asserts she will get a Modified on Plan file before the hearing.

Plan and Motion to Confirm Filed

Debtor has filed a First Modified Plan (Dckt. 31) and Motion to Confirm (Dckt. 27) 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. 30) states personal knowledge testimony in support of the Motion to Confirm. Supplemental Schedules I and J have been filed by Debtor. Dckt. 33.

Given Debtor's active prosecution of confirmation of a Plan, 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.

73. 20-22146-E-13 DPC-1	CURT/CAROLYN COOPER Michael Benavides	MOTION TO DISMISS CASE 4-17-24 [30]
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Final Ruling: No appearance at the July 11, 2024 Hearing is required.

<p>The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.</p>
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The Chapter 13 Trustee, David Cusick ("Trustee"), having filed a an *Ex Parte* Motion to Dismiss the pending Motion on May 14, 2024, Docket 46; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Curt E Cooper and Carolyn Cooper ("Debtor"); the *Ex Parte* Motion is granted, the Chapter 13 Trustee's Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

The Motion to Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 46, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

74. [21-22748](#)-E-13 **DAVID/DONNA WINDMILLER** **MOTION TO DISMISS CASE**
[DPC-3](#) **Peter Cianchetta** **5-15-24 [87]**

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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 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 Matthew Windmiller and Donna Laura Windmiller (“Debtor”), is delinquent \$11,234.18 in plan payments. Debtor will need to have paid \$16,892.86 to become current by the hearing date. Mot. 1:19-22, Docket 87.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 89.

DISCUSSION

Delinquent

Debtor is \$11,234.18 delinquent in plan payments, which represents multiple months of the \$2,829.34 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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 April 26, 2024. The court computes that 75 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due on April 22, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Sarah Catherine Mallery and Tobin Robert Mallery (“Debtor”), is delinquent \$3,559.46 in plan payments. Debtor will need to have paid \$10,678.38 to become current by the hearing date. Mot. 1:19-22, Docket 39.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket41.

DISCUSSION

Delinquent

Debtor is \$3,559.46 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).

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.

77. 23-22655-E-13 DPC-1	JAVIER ALONZO Mo Mokarram	MOTION TO DISMISS CASE 5-14-24 [21]
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Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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, Javier Alonzo (“Debtor”), is delinquent \$2,280.00 in plan payments. Debtor will need to have paid \$3,800.00 to become current by the hearing date. Mot. 1:19-22, Docket 21.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 23.

DISCUSSION

Delinquent

Debtor is \$2,280.00 delinquent in plan payments, which represents multiple months of the \$780 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.

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on June 12, 2024. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

<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, John Michael Hiser (“Debtor”), is delinquent \$8,853.00 in plan payments. Mot. 1:24, Docket 29.
2. Debtor has failed to file an amended Plan and set it for confirmation after the court sustained Trustee Objection to the previous Plan on April 23, 2024, at Docket 27. Mot. 2:4-6, Docket 29.

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

DISCUSSION

Delinquent

Debtor is \$8,853.00 delinquent in plan payments, which represents multiple months of the \$3,344 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

79. 22-20157-E-13 DPC-3	NELSON MADSEN / SHARON BURNS Peter Macaluso	MOTION TO DISMISS CASE 5-10-24 [101]
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Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on xxxx, 202x. By the court’s calculation, xx 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 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, Nelson A Madsen and Sharon L Burns (“Debtor”), are delinquent \$3,791.19 in plan payments. Mot. 1:27-28, Docket 101.

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

DEBTOR'S RESPONSE

On June 26, 2024, Debtor filed written Opposition. Docket 105. Debtor states they will file a Modified Plan before the hearing.

DISCUSSION

Delinquent

Debtor is \$3,791.19 delinquent in plan payments, which represents roughly one month of the \$5,920.01 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).

Plan and Motion to Confirm Filed

Debtor has filed a First Modified Plan (Dckt. 110) and Motion to Confirm (Dckt. 107) 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. 109) states personal knowledge testimony in support of the Motion to Confirm. Debtor has filed Supplemental Schedules I and J. Dckt.

Given Debtor's active prosecution of confirmation of a Plan, 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 10, 2024 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 20, 2024. The court computes that 20 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 June 6, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court’s calculation, 57 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, Sean James McGlone and Stacy Lynn McGlone (“Debtor”), is delinquent \$1,250.00 in plan payments. Debtor will need to have paid \$3,230.00 to become current by the hearing date. Mot. 1:19-22, Docket 34.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 36.

DISCUSSION

Delinquent

Debtor is \$1,250 delinquent in plan payments, which represents roughly one month of the \$990 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.

82. [19-21860](#)-E-13

LEONID/LYUDMILA BANAR
Mark Shmorgon

**ORDER TO SHOW CAUSE - FAILURE
TO TENDER FEE FOR FILING
TRANSFER OF CLAIM
4-16-24 [\[113\]](#)**

Final Ruling: No appearance at the July 10, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Rushmore Servicing, Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on April 17, 2024. The court computes that over 70 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: \$26 due on April 2, 2024.

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

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

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

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

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

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

83. [20-21562](#)-E-13 **SALLY MUNGWA** **MOTION TO DISMISS CASE**
[DPC-4](#) **Ronald Holland** **5-15-24 [86]**

Final Ruling: No appearance at the July 10, 2024 Hearing is required.

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 90), **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

84. [24-21763](#)-E-13 **MARISA ORTIZ** **ORDER TO SHOW CAUSE - FAILURE**
84 thru 85 **Peter Macaluso** **TO PAY FEES**
5-28-24 [\[23\]](#)

Final Ruling: No appearance at the July 10, 2024 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 May 28, 2024. The court computes that 43 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 13, 2024.

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

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

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

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

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

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

85. [24-21763](#)-E-13

MARISA ORTIZ
Peter Macaluso

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-3-24 [\[25\]](#)**

Final Ruling: No appearance at the July 10, 2024 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 3, 2024. The court computes that 37 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 May 29, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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 May 22, 2024. The court computes that 49 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: \$29 due on May 16, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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.

<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, Susan Elizabeth Lytle (“Debtor”), is delinquent \$1,190.00 in plan payments. Debtor will need to have paid \$2,380.00 to become current by the hearing date. Mot. 1:19-22, Docket 49.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 52.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 26, 2024. Dockets 53, 54. Debtor states the delinquency will be cured by July 13, 2024, when she receives her income check, completing her Plan. Decl. ¶ 4, Docket 54.

DISCUSSION

Delinquent

Debtor is \$1,190.00 delinquent in plan payments, which represents multiple months of the \$595.00 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).

Here, Debtor testifies that she is going to fully cure the delinquency a few days after the hearing.

The Trustee filed an Ex Parte Motion to dismiss this Motion to Dismiss, stating that Debtor is now current in payments. Dckt. 56.

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 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 14, 2024. By the court's calculation, 57 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, Kevin Charles Welch ("Debtor"), is delinquent \$7,165.20 in plan payments. Debtor will need to have paid \$17,547.80 to become current by the hearing date. Mot. 1:19-22, Docket 30.

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

DISCUSSION

Delinquent

Debtor is \$7,165.20 delinquent in plan payments, which represents more than a month of the \$5,191.30 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.

CASE CONVERTED: 06/25/24

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 17, 2024. By the court’s calculation, 54 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 June 25, 2024. Docket 129.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Jwyanza Adisa Broussard and Electa Jeanee GreerBroussard’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on June 25, 2024, however, converting the case to a proceeding under Chapter 7. Dckt. 129. 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 June 25, 2024. *McFadden*, 37 B.R. at 521.

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, this Bankruptcy Case having been converted to one under Chapter 7, 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.

90. [24-21267](#)-E-13

KYLE/ELLEN GATELY
Mikalah Liviakis

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES**
5-3-24 [14]

90 thru 91

Final Ruling: No appearance at the July 10, 2024 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 May 4, 2024. The court computes that 67 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$79 due on April 29, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, 2024. The court computes that 36 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: \$1 due on May 28, 2024.

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

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

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

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

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

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

Final Ruling: No appearance at the July 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 3, 2024. By the court’s calculation, 68 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, Cayce Ellen DaRosa and Manuel Fernando DaRosa (“Debtor”), is delinquent \$636.34 in plan payments. Mot. 1:24-25, Docket 33.
2. Debtor has no Plan pending after this court sustained Trustee’s Objection on February 13, 2024. *Id.* at 2:4-8.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 35.

DISCUSSION

Delinquent

Debtor is \$636.34 delinquent in plan payments, which represents approximately one month of the \$640 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 February 13, 2024. Docket 30. 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.

93. [24-21070](#)-E-13

THOMAS MEADOWS
Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
4-23-24 [\[41\]](#)**

DEBTOR DISMISSED: 05/28/24

93 thru 94

Final Ruling: No appearance at the July 10, 2024 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 April 24, 2024. The court computes that more than 70 days' notice has been provided.

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

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on May 28, 2024 (Docket 63), 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.

94. [24-21070](#)-E-13

THOMAS MEADOWS
Pro Se

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
5-23-24 [[60](#)]**

DEBTOR DISMISSED: 05/28/24

Final Ruling: No appearance at the July 10, 2024 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 May 24, 2024. The court computes that 47 days' notice has been provided.

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

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on May 28, 2024 (Docket 63), 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 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. By the court’s calculation, 57 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, this Case having been converted to one under Chapter 7. Ntc. of Conversion; Dckt. 26.

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

1. The debtor, Richard Hyler Halladay (“Debtor”), is delinquent \$1,800.00 in plan payments. Debtor will need to have paid \$3,400 to become current by the hearing date. Mot. 1:19-21, Docket 19.

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

DISCUSSION

Delinquent

Debtor is \$1,800.00 delinquent in plan payments, which represents multiple months of the \$800.00 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).

The Bankruptcy Case having been converted to one under Chapter 7, 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, the Bankruptcy Case having been converted to one under Chapter 7, 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..

96. 20-24776-E-13 DPC-4	FORREST GARDENS Mikalah Liviakis	MOTION TO DISMISS CASE 5-15-24 [89]
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Final Ruling: No appearance at the **July 10, 2024** 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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, Forrest Sylvan Gardens (“Debtor”), is delinquent \$1,746.00 in plan payments. Debtor will need to have paid \$3,492.00 to become current by the hearing date. Mot. 1:19-22, Docket 89.

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

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on June 25, 2024. Dockets 93, 94. Debtor states the delinquency resulted from an ongoing medical issue but will be cured prior to the hearing date. Decl. ¶¶ 4-6, Docket 94.

DISCUSSION

Delinquent

Debtor is \$1,746.00 delinquent in plan payments, which represents multiple months of the \$873.00 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).

Here, Debtor testifies the delinquency will be cured, asking to remain in Chapter 13. On July 8, 2024, Trustee filed an Ex Parte Motion to withdraw this Motion, the Debtor becoming current.

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 10, 2024 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, parties requesting special notice, and Office of the United States Trustee on May 15, 2024. 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.

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

1. The debtor, Rosalinda Jessica Rivera (“Debtor”), is delinquent \$4,705.00 in plan payments. Debtor will need to have paid \$7,075.00 to become current by the hearing date. Mot. 1:19-22, Docket 57.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket59.

DISCUSSION

Delinquent

Debtor is \$4,705.00 delinquent in plan payments, which represents multiple months of the \$1,185.00 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.

98. [24-21578-E-13](#)

ALLEN GAMBLE
Peter Macaluso

**ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-6-24 [62]**

Final Ruling: No appearance at the July 10, 2024 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Creditor, Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 7, 2024. The court computes that 33 days’ notice has been provided.

The court issued an Order to Show Cause based on Flagstar Bank, N.A.’s failure to pay the required fees in this case: \$199 due on May 23, 2024.

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

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

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

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

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

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

99. [21-21883-E-13](#)
[DPC-2](#)

WILLIAM VANNUCCI
Mikalah Liviakis

MOTION TO DISMISS CASE
5-8-24 [\[101\]](#)

Final Ruling: No appearance at the July 10, 2024 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, persons who have filed a Request for Notice, and Office of the United States Trustee on May 9, 2024. Proof of Service 2:4-5, Docket 106. By the court’s calculation, 62 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. Delinquency. The debtor, William James Vannucci (“Debtor”), is delinquent \$33,103.30 in plan payments. Mot. To Dismiss 1:27, Docket 101.
2. Dismissal rather than conversion is recommended. The Trustee’s records show that this matter was not previously converted from another chapter. *Id.* at 2:7. Non-exempt assets total \$32,949.29 as of the date of filing from several vehicles, a trailer, and a bank account. *Id.* at 2:8. However, the Debtor owes a significant amount to the Class 5 creditor Internal Revenue

Service in the amount of \$430,008.08. *Id.* at 2:10-12. The confirmed plan proposes to pay 1.5% to the general unsecured creditors. The Debtor is in month 36 of a 60-month plan (May 2024). The Trustee believes that dismissal rather than conversion is in the best interest of creditors and the estate. *Id.* at 2:12-15.

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

DEBTOR'S RESPONSE

Debtor did not file a Response.

DISCUSSION

Delinquent

Debtor is \$33,103.30 delinquent in plan payments, which represents multiple months of the \$4,762.24 plan payment. Before the hearing, another two plan payments will be due. Mot. to Dismiss 1:27-2:1, Docket 101. 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.

Final Ruling: No appearance at the July 10, 2024 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, persons who have filed a Request for Notice, and Office of the United States Trustee on June 7, 2024. Proof of Service 2:4-5, Docket 62. 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.

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

1. No plan pending. Debtor's Motion to Confirm an amended Plan was denied by the Court on March 12, 2024. Mot. To Confirm, Docket 35; Order re: Plan, Docket 57. Debtor has failed to file an amended Plan and set for confirmation. Mot. to Dismiss 1:25-26, Docket 59.
2. Best Interest of Creditors. According to the Trustee's records, there is \$53,736.00 in non-exempt equity in the assets listed on Schedules A/B. *Id.* at 1:28. This may not be correct as an objection to exemptions was without prejudice to the earlier claim of exemptions. Civ. Min., Docket 56. Debtor could file a new Schedule C to clarify amounts claimed. Mot. to Dismiss 2:2, Docket 59. The Trustee notes the Debtors voluntarily filed their Chapter 13 proposing to pay a 100% dividend to the unsecured creditors. *Id.* at 2:2-3. According to the Trustee's records, this case has not previously been converted from another chapter. No prior bankruptcy is shown by the Debtor in the last 8 years and the Trustee is not aware of any. *Id.* at 2:4-7.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 61.

DEBTOR'S RESPONSE

Debtor did not file a Response.

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 14, 2024. Order re: Plan, Docket 57. 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 Ruling: No appearance at the July 10, 2024 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, Parties requesting special notice, and Office of the United States Trustee on June 10, 2024. 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). 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 3, 2024. Docket 77.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Dennis Samuel Cobb and Robin Karen Cobb’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on July 3, 2024, however, converting the case to a proceeding under Chapter 7. Dckt. 77. 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 3, 2024. *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, the Bankruptcy Case having been converted to one under Chapter 7, 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.

102. [20-21299](#)-E-13
[DPC-2](#)

DERWIN/GLORIA DARBY
Justin Kuney

CONTINUED MOTION TO DISMISS
CASE
3-8-24 [57]

Final Ruling: No appearance at the July 10, 2024 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 March 8, 2024. By the court’s calculation, 54 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

REVIEW OF THE MOTION

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

1. The debtor, Derwin Darby and Gloria Ann Darby (“Debtor”), is delinquent \$3,350 in plan payments. Debtor will need to have paid \$10,050 to become current by the hearing date. Docket 57 p. 1:17-13.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 59.

DEBTOR’S RESPONSE

Debtor filed a Response and supporting Declaration on April 17, 2024. Dockets 61, 62. Debtor testifies that they had a temporary reduction in income that caused the delinquency. Decl., Docket 62 ¶ 1.

Debtor states they are doing their best to bring the Plan current by the hearing, but if they cannot, they will file a Modified Plan to address the delinquency. *Id.* at ¶¶ 6-7.

DISCUSSION

Delinquent

Debtor is \$3,350 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).

May 1, 2024 Hearing

At the May 1, 2024 hearing, Debtor's Counsel reported that the Modified Plan has now been made feasible in light of the Debtor now receiving Social Security Benefits that Debtor is electing to use to fund the Plan. The Confirmation Hearing is set for 2:00 p.m. on July 2, 2024.

In light of this information, the Trustee concurred with Debtor's request for a continuance.

The hearing on this Motion to Dismiss was continued to 9:00 a.m. on July 10, 2024.

July 10, 2024 Hearing

The court confirmed Debtor's Chapter 13 Plan at the hearing held on July 2, 2024. Trustee's objections have been resolved.

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.