

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

July 21, 2020 at 2:00 p.m.

1.	19-27700 -C-13	KRISTA/SEAN BILLINGS	MOTION TO DISMISS CASE
	RDG -2	Peter Cianchetta	7-7-20 [64]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 67.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the second amended plan on June 17, 2020.

A review of the docket confirms the second amended plan was denied confirmation, and no subsequent plan is pending for confirmation hearing. Dckt. 63. Failure to file a plan and set it for confirmation is evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 67.

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the first amended plan on June 16, 2020.

A review of the docket confirms the first amended plan was denied confirmation, and no subsequent plan is set for confirmation hearing. Dckt. 63.

The Motion also argues debtor is \$2,090.00 delinquent in plan payments, which is supported by declaration. Dckt. 67.

A review of the docket shows the debtor filed a third amended plan and corresponding Motion To Confirm on July 15, 2020. Dckts. 69, 73.

Because it appears debtor is actively prosecuting the case, 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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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.

3. [20-21413](#)-C-13 IVAN SYTAY
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-15-20 [[54](#)]

DEBTOR DISMISSED: 06/18/2020

Final Ruling: No appearance at the July 21, 2020, hearing required.

The above captioned case was dismissed on June 18, 2020. Dckt. 59.
Therefore, the Order To Show Cause is discharged as moot.

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 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
dismissed as moot.

4. [20-20415](#)-C-13 BERTHA PEARSON
Steele Lanphier

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-1-20 [[41](#)]

Final Ruling: No appearance at the July 21, 2020, hearing required.

The court issued this Order To Show Cause because debtor had not paid the final filing fee installment payment on the due date of May 26, 2020. Dckt. 41.

A review of the docket shows that the final installment has now been paid. Therefore, the Order To Show Cause is discharged.

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 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 21, 2020, hearing required.

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 42.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The hearing on the Motion to Dismiss is continued to August 25, 2020 at 2:00 p.m.

The Chapter 13 Trustee filed this Motion To Dismiss arguing the debtor has caused unreasonable delay by failing to file an amended plan after the Chapter 13 plan was denied confirmation.

Debtor's counsel filed an Opposition on July 13, 2020, requesting a continuance to allow him to meet with debtor and prepare an amended plan.

In light of counsel's request and the COVID-19 pandemic, the court shall continue the hearing to allow debtor to address Trustee's grounds for dismissal.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the hearing on the Motion to Dismiss is continued to August 25, 2020 at 2:00 p.m.

6. [15-29322](#)-C-13 JAMES/TRACEE LEWIS
[RDG](#)-1 Ashley Amerio

NOTICE OF DEFAULT AND MOTION TO
DISMISS CASE FOR FAILURE TO
MAKE PLAN PAYMENTS
6-4-20 [[183](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 33 days' notice was provided. Dckt. 189.

The Motion to Dismiss is ~~XXXXXXXXXX~~

The Chapter 13 Trustee filed a Notice of Default And Intent To Dismiss Case alleging that the debtor is \$3,505.00 delinquent in plan payments. Dckt. 183.

The debtor filed an Opposition setting this hearing arguing that debtor has become current in plan payments. Dckt. 185. The Opposition is supported by debtor's declaration and Exhibits A and B, which are cashier's checks showing a payments of \$1,780 on June 4, 2020, and \$1,725 on June 16, 2020. Dckts. 187, 188.

While the evidence shows debtor cured the delinquency, it is unclear whether debtor has also been able to make the upcoming plan payment.

At the hearing, ~~XXXXXXXXXXXXXXXXXX~~.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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 ~~XXXXXXXXXX~~

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 39.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing debtor is \$3,115.00 delinquent in plan payments, which is supported by the Declaration. Dckt. 38.

Failure to maintain plan payments is evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 63.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the first amended plan on June 16, 2020.

A review of the docket confirms the first amended plan was denied confirmation, and no subsequent plan is set for confirmation hearing. Dckts. 59, 60.

Failure to file and set a plan for confirmation hearing is evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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.

9. [20-21028](#)-C-13 MARILYN JOHNSON
Candace Brooks

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-30-20 [[54](#)]

Final Ruling: No appearance at the July 21, 2020, hearing required.

The court issued this Order To Show Cause because debtor had not paid the final filing fee installment payment on the due date of June 25, 2020. Dckt. 54.

A review of the docket shows that the final installment has now been paid. Therefore, the Order To Show Cause is discharged.

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 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.

10. [20-21336](#)-C-13 CHI MA
Yasha Rahimzadeh

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-9-20 [[56](#)]

Tentative Ruling:

The court issued this Order To Show Cause because debtor had not paid the third filing fee installment payment on the due date of June 4, 2020. Dckt. 56.

A review of the docket shows the payment has still not been made. Additionally, the final fee installment payment has come due and was not made. Dckt. 70.

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

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 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, and the case is dismissed.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 67.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the Chapter 13 plan on May 19, 2020.

A review of the docket confirms the first amended plan was denied confirmation, and no subsequent plan is set for confirmation hearing. Dckts. 38, 39.

The Motion also argues debtor is \$6,713.54 delinquent in plan payments, which is supported by declaration. Dckt. 67.

Failure to confirm a plan and maintain plan payments is evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed. 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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

12. [20-20752](#)-C-13 TIMOFEY NIKOLAYEV
Mark Shmorgon

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-15-20 [[43](#)]

DEBTOR DISMISSED: 06/18/2020

Final Ruling: No appearance at the July 21, 2020, hearing required.

The above captioned case was dismissed on June 18, 2020. Dckt. 47.
Therefore, the Order To Show Cause is discharged as moot.

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 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
dismissed as moot.

Final Ruling: No appearance at the July 21, 2020, hearing required.

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 77.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

**The hearing on the Motion to Dismiss is continued to
August 25, 2020 at 2:00 p.m.**

The Chapter 13 Trustee filed this Motion To Dismiss arguing the debtor has caused unreasonable delay by failing to file an amended plan after the first amended plan was denied confirmation on March 14, 2020.

The Motion also argues debtor is \$7,099.00 delinquent in plan payments, which is supported by declaration. Dckt. 76.

Debtor's counsel filed an Opposition on July 13, 2020, noting that Adversary Proceeding, No. 20-02013 is near settlement, which will allow debtor to focus on confirming a plan. Debtor's counsel requests a continuance to allow him to meet with debtor and prepare an amended plan. Dckt. 78.

In light of counsel's request and the COVID-19 pandemic, the court shall continue the hearing to allow debtor to address Trustee's grounds for dismissal.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the hearing on the Motion to Dismiss is continued to August 25, 2020 at 2:00 p.m.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 90.

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor is \$5,080 delinquent in plan payments.

The debtor filed an Opposition on June 9, 2020, requesting a continuance to allow an amended plan to be filed. Dckt. 94.

A review of the docket shows the debtor filed a first amended plan and corresponding Motion To Confirm on July 14, 2020. Dckts. 107, 111.

Because it appears debtor is actively prosecuting the case, 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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 29.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor is \$1,286.35 delinquent in plan payments, which is supported by declaration. Dckt. 28.

Failure to maintain plan payments is evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 78.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the Chapter 13 plan on May 19, 2020.

A review of the docket confirms the first amended plan was denied confirmation, and no subsequent plan is set for confirmation hearing. Dckts. 69, 70.

The Motion also argues debtor is \$11,242.00 delinquent in plan payments, which is supported by declaration. Dckt. 77.

Failure to confirm a plan and maintain plan payments are evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 51.

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

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the time the court denied confirmation of the Chapter 13 plan on June 2, 2020.

A review of the docket confirms the first amended plan was denied confirmation, and no subsequent plan is set for confirmation hearing. Dckts. 42-45.

The Motion also argues debtor is \$8,760.00 delinquent in plan payments, which is supported by declaration. Dckt. 50.

Failure to confirm a plan and maintain plan payments are evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1) either to dismiss or convert the case, whichever is in the best interests of creditors and the estate. By seeking dismissal, the Chapter 13 Trustee favors dismissal as better serving the interests of creditors and the estate. This court agrees with the Chapter 13 trustee. Accordingly, the Motion is granted, and the case is dismissed.

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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dckt. 50.

The Motion to Dismiss is denied without prejudice.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not set the amended plan, filed June 22, 2020, for confirmation hearing.

A review of the docket shows the debtor filed a second amended plan and corresponding Motion To Confirm on July 8, 2020. Dckts. 53, 55.

Because it appears debtor is actively prosecuting the case, 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, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), 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.