

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Chief Bankruptcy Judge

Sacramento, California

July 31, 2013 at 10:00 a.m.

1.	13-26700 -C-13	CORNELIA REYES	MOTION TO DISMISS CASE
	DPC-1	Jamil L. White	6-21-13 [21]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 21, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has not filed all documents required under 521(i) and the debtor has failed to file a Chapter 13 plan. This delay is unreasonable and prejudicial to Creditors.

Cause exists to dismiss this case. 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 having been presented to the court, and upon review of the pleadings, evidence, arguments of

July 31, 2013 at 10:00 a.m.

counsel, and good cause appearing,

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

2. [13-24402](#)-C-13 CARIE MATNEY ORDER TO SHOW CAUSE - FAILURE
 Richard E. Dwyer TO PAY FEES
 7-5-13 [[40](#)]

CASE DISMISSED 7/30/13

3. [13-20613](#)-C-13 TERENCE/CHRISTINA SHANE MOTION TO DISMISS CASE
 TSB-1 C. Anthony Hughes 6-28-13 [[64](#)]

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on July 23, 2013, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

4. [11-33915](#)-C-13 JUSTIN/JESSICA OSBORNE MOTION TO DISMISS CASE
 DPC-6 Mary Ellen Terranella 6-25-13 [[65](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 25, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance

required.

The Trustee seeks dismissal of the case on the basis that the debtor is at least \$1,200 delinquent in plan payments. The Debtor's monthly payment is \$400.

Cause exists to dismiss this case. 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 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.

5. [13-26423](#)-C-13 KIMBERLY PERRY-TURNBOW MOTION TO DISMISS CASE
TSB-1 Peter G. Macaluso 7-17-13 [[18](#)]

Local Rule 9014-1(f) (2) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and Debtor's Attorney on July 17, 2013. 14 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f) (2). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f) (1) (ii) is not, therefore, considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is that the Motion to Dismiss is granted and the case is dismissed. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has failed to make plan payments and is \$1,400 delinquent. The Debtor has paid \$0.00 into the plan to date. Furthermore, the debtor has failed to serve the First Amended Plan or set the a confirmation hearing.

Cause exists to dismiss this case. 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 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.

6.	<u>13-27124</u> -C-13	SAMMY LATINO Pro Se	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 7-1-13 [<u>31</u>]
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Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$58 due on June 24, 2013 The court docket reflects that the Debtor has paid only \$11.50 on July the fees upon which the Order to Show Cause was based.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 28, 2013. 28 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The respondent has filed a written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii).

The court's tentative decision is to deny the motion to dismiss. Oral argument will be entertained at the hearing.

The Trustee seeks dismissal of the case on the basis that the debtor is in material default pursuant to §6.03 of the plan because the plan exceeds the maximum time allowed under 11 U.S.C § 1332(d). The plan will complete in 75 months as opposed to 60 months because the secured and priority claims were \$8,196 greater than scheduled.

The Debtor filed an opposition on July 18, 2013. The opposition states that the debtor has filed a modified plan (MLA-006) and scheduled a confirmation hearing on September 10, 2013. The plan accounts for the shortages in plan payments that were incurred due to the allowed proof of claims.

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 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 and the case will remain open.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 28, 2013. 28 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The respondent has filed a written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii).

The court's tentative decision is to grant the motion to dismiss and dismiss the case. Oral argument will be entertained at the hearing.

The Trustee seeks dismissal of the case on the basis that the Debtor has failed to file a Chapter 13 plan. This case was filed on July 2, 2012 and the Motion to Confirm Amended plan was heard and denied on April 2, 2013. The debtor has failed to amend the plan or set a confirmation hearing. These omissions constitute unreasonable delay that is prejudicial to creditors under 11 U.S.C. § 1307(c).

The Debtor filed an opposition on July 17, 2013. The opposition states that the debtor William Bouttote passed away in May 2013, as a result debtor Barbara Bouttote's circumstances have changed such that she needs to determine her financial situation and make adjustments to her schedules. An Amended Plan will likely be set for hearing on August 13, 2013.

Cause exists to dismiss this case. 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 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. [12-39435](#)-C-13 DANIEL/SHANNON BAKER MOTION TO DISMISS CASE
TSB-1 Richard D. Steffan 7-17-13 [[81](#)]

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on July 23, 2013, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

10. [13-23935](#)-C-13 STEPHANIE EPPERSON MOTION TO DISMISS CASE
TSB-2 David P. Ritzinger 6-20-13 [[44](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 20, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor is \$492.74 delinquent in plan payments and because there is no amended plan set for confirmation. The Trustee's objection to confirmation was sustained by the court on May 21, 2013 and Debtor has failed to file an amended plan.

Cause exists to dismiss this case. 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 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. [13-27637](#)-C-13 WALTER SMITH MOTION TO DISMISS CASE
DPC-1 Pro Se 6-27-13 [[20](#)]

CASE DISMISSED 7/10/13

12. [13-23639](#)-C-13 DARREN BELCHER ORDER TO SHOW CAUSE - FAILURE
Peter Koulouris TO PAY FEES
6-24-13 [[65](#)]

Final Ruling: The court issued an order to show cause based on Debtor's
failure to pay the required fees in this case (\$70.00 due on June 17, 2013).
The court docket reflects that on July 1, 2013, the Debtor paid the fees
upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, 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 are ordered, and the case shall
proceed.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 26, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor is in material default with respect to the terms of the confirmed plan. The debtor is delinquent \$13,760 in plan payments. The debtor has paid a total of \$6,700 into the plan. The payments made by the debtor have not met the monthly payment of \$3,410.

Cause exists to dismiss this case. 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 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.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor (pro se) on June 28, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor failed to attend the First Meeting of Creditors held on June 6, 2013. Also, the debtor failed to provide income verification to the Trustee for the 60 days preceding filing of the bankruptcy and failed to provide the Trustee with a tax transcript or Federal Income Tax return. Finally, the debtor is \$1,200 delinquent in plan payments to the Trustee to date.

Cause exists to dismiss this case. 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 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.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 28, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor is causing unreasonable delay that is prejudicial to creditors. The case was filed on June 8, 2012 and the debtor has still not confirmed a plan. Debtor's Motion to Confirm Amended Plan was heard and denied on May 14, 2013 and the debtor has failed to amend the plan and set a confirmation hearing to date.

Cause exists to dismiss this case. 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 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.

Local Rule 9014-1(f)(2) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and Debtor's Attorney on July 17, 2013. 14 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is not, therefore, considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is that the Motion to Dismiss is granted and the case is dismissed. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has no pending motion to confirm and is causing unreasonable delay that is prejudicial to creditors. Debtor's Motion to Confirm (JRH-2) was heard and denied by this Court at the hearing on May 21, 2013. Debtor filed an amended plan on June 24, 2013 (Docket #57), but there has been no Motion to Confirm this plan filed.

Cause exists to dismiss this case. 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 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.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and Debtor's Attorney on March 28, 2013. 28 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is to continue the Motion to Dismiss to [Date]. Oral argument will be entertained at the hearing.

The Trustee seeks dismissal of the case on the basis that the Debtor has not yet served his chapter 13 plan on interested parties and set it for a confirmation hearing. Further the debtor has yet to commence plan payments and provide income verification to the trustee. Neither has the debtor yet provided the trustee with the requisite tax returns. 11 U.S.C. § 521(e)(2)(A).

The debtor in this case is a serial filer, having filed at least five prior bankruptcy cases in this district (not including those filed by his wife, Maria Camacho). As this court has previously held that, pursuant to 11 U.S.C. § 362(a)(4)(A), no automatic stay went into effect upon the filing of the instant case, creditors will not be prejudiced if this matter is continued to give the debtor time to provide the trustee with the required documentation. (See Docket Item No. 24). The debtor failed to file any of the required documentation since the last continued hearing.

The court shall issue a scheduling 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 having been presented to the court, and upon review of the pleadings, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is continued to [Date].

Local Rule 9014-1(f)(2) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (Pro Se) on July 17, 2013. 14 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is not, therefore, considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is that the Motion to Dismiss is granted and the case is dismissed. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has failed to provide the Trustee with a tax transcript or a copy of their tax return. Furthermore, the debtors have not provided the Trustee with proof of income for the 60 days preceding filing of their bankruptcy. The failure to provide these documents is causing unreasonable delay that is prejudicial to Creditors.

Cause exists to dismiss this case. 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 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.

19. [13-22553](#)-C-13 CYNTHIA JACKSON
Thru #21 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-18-13 [[71](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70 due on May 28, 2013). The court docket reflects that the Debtor still has not paid the fees upon which the Order to Show Cause was based and fees that have subsequently become due remain unpaid.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.

20. [13-22553](#)-C-13 CYNTHIA JACKSON
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-3-13 [[79](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$71 due on June 27, 2013). The court docket reflects that the Debtor still has not paid the fees upon which the Order to Show Cause was based.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.

21. [13-22553](#)-C-13 CYNTHIA JACKSON MOTION TO DISMISS CASE
TSB-2 Pro Se 6-28-13 [[75](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor (pro se) on June 28, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor is at least \$720 delinquent under the terms of the Amended Plan filed on April 24, 2012. In addition, the debtor has yet to confirm a plan, despite the fact that the case was filed on February 27, 2013. Debtor's Motion to Confirm Amended Plan was heard and denied on June 11, 2013 and Debtor has failed to amend the Plan and set a confirmation hearing to date.

Cause exists to dismiss this case. 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 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.

22. [12-38059](#)-C-13 SHARON PHELPS
TSB-1

MOTION TO DISMISS CASE
7-17-13 [[71](#)]

Local Rule 9014-1(f)(2) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and Debtor's Attorney on July 17, 2013. 14 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is not, therefore, considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's tentative decision is that the Motion to Dismiss is granted and the case is dismissed. No appearance required.

The Trustee seeks dismissal of the case on the basis that the Debtor is at least \$2,230 delinquent in plan payments, Debtor has paid \$14,102 into the plan to date. Failure to make plan payments is unreasonable delay which is prejudicial to creditors. 11 U.S.C. § 1307(c)(1). Further, the Trustee asserts that there is no pending plan. Debtor's Motion to Confirm was denied on June 4, 2013 and no subsequent amended plan or Motion to Confirm has been filed.

Cause exists to dismiss this case. 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 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.

23. [12-29261](#)-C-13 EDWARD/ANGELA WHITE
TSB-1 Eric John Schwab

MOTION TO DISMISS CASE
6-28-13 [[87](#)]

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 28, 2013. 28 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The respondent has filed a written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii).

The court's tentative decision is to grant the motion to dismiss and dismiss the case. Oral argument will be entertained at the hearing.

The Trustee seeks dismissal of the case on the basis that the Debtor is in material default. Debtor failed to provide for the Priority claim of Margaret Ann Brown-White in the amount of \$8,833. The debtors objection to this claim was overruled on April 30, 2013.

The Debtor filed an opposition on July 22, 2013. The opposition states that the Debtors are in the process of preparing a modified plan to account for the claim. Debtor's anticipate a modified plan will be filed soon.

Cause exists to dismiss this case. 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 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.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on July 1, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the Debtor has failed to set a confirmation hearing for the Second Amended Plan, which was filed on May 19, 2013. In addition, the debtor has failed to re-set the motion to value (BLF-1) which was heard and denied on June 4, 2013.

Cause exists to dismiss this case. 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 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.

25. [13-26161](#)-C-13 MAYLENE RAMAGOZA
Thru #27 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-7-13 [[25](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70 due on June 3, 2013). The court docket reflects that the Debtor still has not paid the fees upon which the Order to Show Cause was based and fees that have subsequently become due remain unpaid.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.

26. [13-26161](#)-C-13 MAYLENE RAMAGOZA
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-8-13 [[38](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70 due on July 2, 2013). The court docket reflects that the Debtor still has not paid the fees upon which the Order to Show Cause was based.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.

27. [13-26161](#)-C-13 MAYLENE RAMAGOZA MOTION TO DISMISS CASE
TSB-3 Pro Se 6-28-13 [[34](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor (pro se) on June 28, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the Debtor has failed to appear at the First Meeting of Creditors that was held on June 20, 2013. The debtor has also failed to provide Tax Returns and Employer Payment Advices received 60 days prior to filing. In addition the debtor also failed to file Credit Counseling Certificate, making Debtor ineligible to be a debtor under 11 U.S.C § 109(h). Finally, the debtor is delinquent at least \$100 in plan payments.

Cause exists to dismiss this case. 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 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.

28. [13-23467](#)-C-13 ANDRES DELGADILLO MOTION TO DISMISS CASE
TSB-2 Robert P. Huckaby 6-28-13 [[48](#)]

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on July 23, 2013, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

29. [13-23372](#)-C-13 CHRISTOPHER/SARA VENTURA MOTION TO DISMISS CASE
TSB-1 Pro Se 7-3-13 [[46](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor (pro se) on July 3, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has not served their plan on all interested parties and no Motion to Confirm Plan is pending. Also, Trustee will object in part to the plan when a Motion to Confirm is filed for a number of reason: \$2.15 of the plan is blank, the

plan fails to provide treatment for creditors listed in Schedules D, E and F and the Debtor's non-exempt equity totals \$6,775 and the debtors have failed to provide the unsecured creditors a dividend. Finally, the Trustee also seeks dismissal on the basis that the debtor has failed to provide the Trustee with a Tax Return.

Cause exists to dismiss this case. 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 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.

30. [13-25376](#)-C-13 CHRIS/KENDRA JOHNSON MOTION TO DISMISS CASE
TSB-1 Pro Se 6-28-13 [[33](#)]

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor (pro se) on June 28, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor has failed to notice all interested parties of the Chapter 13 Plan and has yet to set a confirmation hearing. The plan was filed on May 16, 2013. This constitute unreasonable delay that is prejudicial to creditors under 11 U.S.C. § 1307(c).

Cause exists to dismiss this case. 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 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.

31.	<u>13-26884</u> -C-13	ALIEEN HOFFMANN	MOTION TO DISMISS CASE
	DPC-1	Jamil L. White	6-21-13 [<u>22</u>]

CASE DISMISSED 7/3/13

32.	<u>11-48486</u> -C-13	JAMES/GIANNA WILLS	MOTION TO DISMISS CASE
	TSB-2	C. Anthony Hughes	6-28-13 [<u>49</u>]

Final Ruling: The Chapter 13 Trustee having filed a Notice of Withdrawal on July 19, 2012, no prejudice to the responding party appearing by the dismissal of the Motion, the parties, having the right to dismiss the motion pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 9014 and 7041, and no issues for the court with respect to this Motion, the court removes this Motion from the calendar.

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Service and 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 February 25, 2013. By the court's calculation, 30 days' notice was provided. 28 days' notice is required.

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

The court's tentative decision is to continue the hearing on Motion to Dismiss to at 10 a.m. 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, the court will make the following findings of fact and conclusions of law:

On April 24, 2013 the court continued the hearing to allow Debtor to finalize three loan modifications.

Prior Plan Denied, No New Plan

The Trustee's Motion argues that the case was filed on August 3, 2012 and Debtor has yet to confirm a plan. Trustee states Debtor's motion to confirm was heard and denied on February 5, 2013 and Debtor has not filed an amended plan or set a confirmation hearing.

Debtor replies that he has not filed his second amended plan because he is waiting for responses for three pending loan modifications. Debtor states that all three requests to modify a loan were submitted on January 29, 2013 and Debtor has not received a response. Debtor states that he expects to have offers or denials on all three requests by the end of April 2013. Debtor states that he is current on his Chapter 13 payments and is working with real estate lenders to finalize the loan modification requests. Debtor provides copies of the facsimile transmissions evidencing the loan modification requests for the Brookhaven, Spring Valley, and San Juan properties.

Debtor's Reply

On April 24, 2013 Debtor replied stating that he is current on all payments, his second amended plan is set for hearing on June 11, 2013, and he provided Trustee with bank statements. Debtor states that two of the three loan modification applications are under review and the third application is still pending.

The court continued the hearing to allow Debtor to obtain three loan modifications.

Debtor's Opposition (7/17/2013)

The debtor has been unable to get the loan modifications which were pending during the previous hearing. Debtor admits he is unable to make the plan payments and has listed two properties for short sale, while retaining his primary residence. Debtor asks for more time to prepare a plan that reflects these changes.

Trustee's Reply (7/23/2013)

The Trustee believes that the debtor has had plenty of time, almost a year year, to propose a confirmable plan, but has failed to do so. This Motion to Dismiss has been continued twice since being filed on February 5, 2013 and the debtor has failed to amend the Plan and set a confirmation hearing. The debtor has also stopped making plan payments, being \$4,300 delinquent under the terms of the last plan.

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 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 Motion to Dismiss is granted. The case is dismissed.

34.	<u>12-26789</u> -C-13	GERALD/ROBIN TOSTE	MOTION TO DISMISS CASE
	TSB-4	Charles G. Kinney	7-17-13 [<u>197</u>]

Local Rule 9014-1(f)(2) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on July 17, 2013. 14 days' notice is required. That requirement was met.

Tentative Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2).

The court's tentative decision is to grant the motion to dismiss and dismiss the case. Oral argument will be entertained at the hearing.

The Trustee seeks dismissal of the case on the basis that the debtors have no pending plan after Debtors' Motion to Confirm was heard and denied on May 21, 2013 (Docket #194). No subsequent amended plan or Motion to Confirm has been filed. This is the fourth Motion to Dismiss the Trustee has filed for failure to confirm a plan. The Debtors have filed four amended plans all of which have been denied confirmation by the court. The

Trustee does not believe that the debtors are able or will be able to confirm a plan in this case.

The debtors filed an opposition on July 22, 2013. The opposition states that the Trustee's motion was filed with insufficient notice. However, because the Trustee's motion was filed under Local Rule 9014-1(f)(2) there need only be 14 days notice. The debtors also objected to the Trustee's motion because they believe there has been no unreasonable delay. The debtor states that it has been current in its payments and has even overpaid some of its secured creditors. The debtors state they will propose a fifth amended plan that will cure the previous problem with one unsecured creditor. Debtors believe that because the Trustee had no opposition to the fourth amended plan, getting the fifth amended plan confirmed will not be difficult.

Although the defects in the plan may be easily cured, a search of the court's docket shows that no such amended plan has been filed to date. Accordingly, the Trustee's concerns remain valid.

Cause exists to dismiss this case. 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 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.

35. [13-26390](#)-C-13 JOHN/CYNTHIA MOORE
Rebecca E. Ihejirika

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-12-13 [[39](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$70 due on June 7, 2013). The court docket reflects that on June 17, 2013, the Debtor paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, 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 are ordered, and the case shall proceed.

36. [13-26091](#)-C-13 MICHAEL REINTSMA MOTION TO DISMISS CASE
TSB-1 Pro Se 6-28-13 [[23](#)]

CASE DISMISSED 7/10/13

37. [13-22792](#)-C-13 LAWRENCE TRIPP AND ORDER TO SHOW CAUSE - FAILURE
JENNIFER LANDREMAN TO PAY FEES
Mikalalah R. Liviakis 7-5-13 [[33](#)]

Final Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$71 due on July 1, 2013). The court docket reflects that on July 19, 2013, the Debtor paid the fees upon which the Order to Show Cause was based.

The Order to Show Cause is discharged. No appearance required.

The fees having been paid, 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 are ordered, and the case shall proceed.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on the Debtor and Debtor's attorney on June 20, 2013. 28 days' notice is required. That requirement was met.

Final Ruling: The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See 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. No appearance required.

The Trustee seeks dismissal of the case on the basis that the debtor does not have a plan pending following the Trustee's Objection to Confirmation being sustained on January 15, 2013. The debtors filed an amended plan and set a confirmation hearing on March 12, 2013, but the debtors withdrew their motion and have failed to file a new amended plan to date.

Cause exists to dismiss this case. 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 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.

39. [13-25495](#)-C-13 TROY FINLEY AND TIFFANY ORDER TO SHOW CAUSE - FAILURE
MCINTYRE-FINLEY TO PAY FEES
Pro Se 6-26-13 [[41](#)]

Tentative Ruling: The court issued an order to show cause based on Debtor's failure to pay the required fees in this case (\$140 due on June 21, 2013). The court docket reflects that the Debtor still has not paid the fees upon which the Order to Show Cause was based.

The court's tentative decision is to sustain the Order to Show Cause and order the case 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, no sanctions are issued pursuant thereto, and the case is dismissed.