

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

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**August 10, 2016 at 10:00 A.M.**

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1.	<a href="#"><u>16-20901</u></a> -C-13	ALICIA GADDIS	MOTION TO DISMISS CASE
	DPC-1	Mitchell Abdallah	7-13-16 [ <a href="#"><u>60</u></a> ]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

3. [16-21503](#)-C-13 BELINDA VIDALES  
Candace Brooks

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-14-16 [[25](#)]

Also #4

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on June 14, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 9, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.

4. [16-21503](#)-C-13 BELINDA VIDALES  
Candace Brooks

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-13-16 [[38](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 13, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on July 11, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.

5. [16-22304](#)-C-13 KIMBERLY RHODEN  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-18-16 [[43](#)]

Thru #7

**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, the court will make the following findings of fact and conclusions of law:

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 18, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on July 11, 2016).

**The court's decision is to sustain the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on June 16, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 13, 2016).

**The court's decision is to sustain the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.

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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2015. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$90 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$90 is due prior to this hearing. Debtor has paid a total of \$0 into the plan thus far.
2. Failure to pay filing fees.
3. After the court sustained objections to confirmation on June 28, 2016, the Debtor failed to file an amended plan.

The court has considered the Trustee's reason for dismissal and finds it to be 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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on June 17, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$9,200 delinquent in plan payments to the Trustee to date with another monthly payment of \$4,600 to become due prior to this hearing. Debtor has paid \$13,800 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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. [15-28606](#)-C-13 MARY LOU MURPHY CONTINUED MOTION TO DISMISS  
DPC-4 Lauren Rode CASE  
6-1-16 [[52](#)]

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

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.**

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Local Rule 9014-1(f)(2) Motion -

Correct 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 81, 2016. 14 days' notice is required. That requirement was met.

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

<b>The court's decision is to deny the Motion to Dismiss without prejudice.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The case was filed on November 4, 2015. Debtor filed an amended plan on February 18, 2016 and has failed to set a confirmation hearing date. The Trustee filed a motion to dismiss for the same issue on April 5, 2016. The court denied the motion because Debtor's counsel explained the reasons for the delay at the hearing.

#### **Prior**

The court has considered the Trustee's reasons for dismissal and finds them to be valid. A review of the docket shows that Debtor has filed a new plan (dkt. 60) but again failed to file an accompanying motion to confirm plan. Debtor offers no explanation for the delay in setting the Plan for confirmation. This is unreasonable delay which is prejudicial to creditors. 11 U.S.C. §1307(c)(1).

#### **Discussion**

The docket reflects an order confirming plan. Dkt. 70. This resolves the Trustee's concern.

Cause does not exist to dismiss this case. The motion is denied.

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 without prejudice.

10. [16-23607](#)-C-13 JUDITH LUCAS  
Steele Lanphier

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-6-16 [[14](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 6, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$2.00 due on July 1, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$1,560 delinquent in plan payments to the Trustee to date. Debtor has paid \$8,580 into the plan to date.

**Debtor's Opposition**

Debtor will file a second modified plan prior to the hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that Debtor has not filed a modified 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.

12. [15-29610](#)-C-13 IVONNE/RICHARD SCHAFFER MOTION TO DISMISS CASE  
DPC-2 Peter Macaluso 7-12-16 [[53](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

13. [13-35611](#)-C-13 KENNETH HUSARIK AND KELLY MOTION TO DISMISS CASE

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

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.**

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Local Rule 9014-1(f)(2) Motion -

Correct 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 July 27, 2016. 14 days' notice is required. That requirement was met.

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

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$10,053.50 delinquent in plan payments to the Trustee to date. Debtor has paid \$125,695.50 into the plan to date.

The court has considered the Trustee's reasons for dismissal and finds them to be 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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$8,112 delinquent in plan payments to the Trustee to date with another monthly payment of \$4,056 to become due prior to this hearing. Debtor has paid \$128,392 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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.

15. [16-23214](#)-C-13 LYUBOV ROMANOVICH  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-21-16 [[20](#)]

Also #16

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on June 21, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on June 16, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.



**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not provide Trustee with a tax transcript or copy of his 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 document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor is \$70.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$70.00 is due before the hearing on the motion. Debtor has paid \$0.00 into the plan to date.

The court has considered the Trustee's reasons for dismissal and finds them to be 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.

17. [14-31615](#)-C-13 ANTHONY/GEORGENIA AKA MOTION TO DISMISS CASE  
DPC-1 Julius Engel 7-13-16 [[69](#)]

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The plan exceeds 60 months - the maximum amount of time allowed under 11 U.S.C. § 1322(d).

#### **Debtor's Opposition**

Debtor will file a modified plan prior to the hearing.

#### **Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that Debtors have not filed a modified 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.

18. [16-20615](#)-C-13 GALE BUSH AND JERRY BAKER MOTION TO DISMISS CASE  
DPC-1 Michael Hays 7-13-16 [[23](#)]

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$3,034 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,148 is due before the hearing on the motion. Debtor has paid \$1,558 into the plan to date.

#### **Debtor's Opposition**

Debtor will file a modified plan prior to the hearing.

#### **Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that Debtors have not filed a modified 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.

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

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.**

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Local Rule 9014-1(f)(2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on June 3, 2016. 14 days' notice is required. That requirement was met.

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

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$7,172.00 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$63,586.00 is due on June 25, 2016. Debtor has paid a total of \$0.00 into the plan thus far.

The court has considered the Trustee's reason for dismissal and finds it to be 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.

20. [16-21916](#)-C-13 CHARLES/MARYLOU HODGE  
Scott Shumaker

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-1-16 [[52](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 1, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 27, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2015. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$530 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$155 is due prior to this hearing. Debtor has paid a total of \$1,640 into the plan thus far.

The court has considered the Trustee's reason for dismissal and finds it to be 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.

22. [16-22719](#)-C-13 MATTHEW JUHL-DARLINGTON MOTION TO DISMISS CASE  
DPC-2 Michael Hays 6-15-16 [[16](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

23. [15-27521](#)-C-13 JENNIFER BROWN MOTION TO DISMISS CASE  
DPC-1 Ashley Amerio 7-13-16 [[20](#)]

**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).

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.**  
-----

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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.



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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,605 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$535 is due PRIOR TO THE HEARING. Debtor has paid \$3,210 into the plan to date.

#### **Debtor's Opposition**

Debtor states that Debtor's monthly rent has increased by \$100 and that Debtor will be current by August 10, 2106.

#### **Trustee's Reply**

Debtor's opposition appears to modify the plan without filing a modified plan and noticing creditors.

#### **Discussion**

Debtor is delinquent and the docket does not reflect that Debtor has filed a modified plan. The court has considered the Trustee's reasons for dismissal and finds them to be 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.

24. [16-20721](#)-C-13 SILVIA VILLALPANDO  
Mohammad Mokarram

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-13-16 [[19](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on June 13, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 8, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 case shall proceed in this court.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$3,800 delinquent in plan payments to the Trustee to date with another monthly payment of \$2,700 to become due prior to this hearing. Debtor has paid \$115,000 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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.

26.	<a href="#">16-23627</a> -C-13	ALEXANDAR POLUPAN	MOTION TO DISMISS CASE
	DPC-2	Pro Se	7-27-16 [ <a href="#">31</a> ]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,350 delinquent in plan payments to the Trustee to date with another monthly payment of \$450 to become due prior to this hearing. Debtor has paid \$1,800 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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. [13-35531](#)-C-13 EDWIN/ELIZABETH RIVAS MOTION TO DISMISS CASE  
DPC-5 Peter Macaluso 7-12-16 [[146](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,506.12 delinquent in plan payments to the Trustee to date with another monthly payment of \$2,646 to become due prior to this hearing. Debtor has paid \$39,257.88 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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. [12-31136](#)-C-13 AMADA ROGERS MOTION TO DISMISS CASE  
DPC-9 Mary Ellen Terranella 7-12-16 [[55](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.



**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$750 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$250 is due before the hearing on the motion. Debtor has paid \$3,000 into the plan to date.

The court has considered the Trustee's reasons for dismissal and finds them to be 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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,42 delinquent in plan payments to the Trustee to date with another monthly payment of \$1,210 to become due prior to this hearing. Debtor has paid \$25,090 into the plan to date.

**Debtor's Opposition**

Debtor states that Debtor will convert the case to one under chapter 7.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured. Further, the docket does not reflect that Debtor has filed a motion to convert case.

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.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on December 14, 2015. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss thee case.</b>
--

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. After the Debtor's Motion to confirm was denied on April 26, 2016, Debtor failed to file an amended plan and set it for confirmation.

**Debtor's Opposition**

Debtor will file an amended plan prior to the hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that Debtor has not filed 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.

35. [16-22645](#)-C-13 PATRICK/WENDY COSENTINI MOTION TO DISMISS CASE  
DPC-2 John Downing 7-5-16 [[22](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.

-----  
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, Debtor's Attorney, and Office of the United States Trustee on June 20, 2016. 28 days' notice is required. That requirement was met.

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.

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

The Chapter 13 Trustee seeks dismissal based on the following:

1. Debtors have failed to file all pre-petition tax returns required for the four years preceding the filing of the petition.
2. Debtor is \$1,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$500 is due before the hearing on the motion. Debtor has paid \$0.00 into the plan to date.

The court has considered the Trustee's reasons for dismissal and finds them to be 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 granted and the case is dismissed.

36. [16-22945](#)-C-13 DENNIS JACOPETTI  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
6-9-16 [[23](#)]

Thru #38

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on June 9, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 6, 2016).

**The court's decision is to sustain the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.

37. [16-22945](#)-C-13 DENNIS JACOPETTI  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
-----

The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 11, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on July 5, 2016).

**The court's decision is to sustain the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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 other sanctions are issued pursuant thereto, and the case is dismissed.



**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not provide Trustee with a tax transcript or copy of his 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 document exists. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). This is required seven days before the date first set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(1).
2. Debtors have failed to file all required business documents.
3. Debtor is a serial filer and has filed seven cases since 2012 without changed circumstances.
4. Debtor failed to list all prior cases on his petition.
5. The plan proposes \$0 in monthly payments.

The court has considered the Trustee's reasons for dismissal and finds them to be 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

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,

39. [16-22646](#)-C-13 JOEL ERICKSON MOTION TO DISMISS CASE  
DPC-2 John Downing 7-5-16 [[29](#)]

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, Debtor's Attorney, and Office of the United States Trustee on July 5, 2016. 28 days' notice is required. That requirement was met.

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 Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors have failed to file all pre-petition tax returns required for the four years preceding the filing of the petition.
2. Debtor is \$2,900 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,450 is due before the hearing on the motion. Debtor has paid \$0.00 into the plan to date.
3. Debtor has failed to provide proof of his social security number.

The court has considered the Trustee's reasons for dismissal and finds them to be 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.

40. [14-24647](#)-C-13 GRANT/LORI HANEY MOTION TO DISMISS CASE  
DPC-2 Eric Schwab 7-13-16 [[67](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

41. [15-21848](#)-C-13 JOHN LABARBERA, AND  
DPC-2 JACLYN LABARBERA  
Bruce Dwiggins

MOTION TO DISMISS CASE  
7-13-16 [[58](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

42. [16-22948](#)-C-13 RAYMOND/DIANA MAGALLANES  
Candace Brooks

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-13-16 [[42](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
-----

The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on July 13, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$30.00 due on June 29, 2016).

**The court's decision is to discharge the Order to Show Cause.**

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

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 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.

**Below is the court's tentative ruling.**

-----  
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, Debtor's Attorney, and Office of the United States Trustee on March 16, 2016. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The plan will complete in 96 months, which exceed the statutory maximum time allowed under 11 U.S.C. § 1322(d).

The court has considered the Trustee's reason for dismissal and finds it to be 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.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$400 delinquent in plan payments to the Trustee to date with another monthly payment of \$200 to become due prior to this hearing. Debtor has paid \$7,900 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquency will be cured by the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

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.

45.	<a href="#">11-40953</a> -C-13	ASHISH/MONICA PATEL	CONTINUED MOTION TO DISMISS
	DPC-10	Paul Bains	CASE
			5-25-16 [ <a href="#">162</a> ]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.



**Final Ruling:** No appearance at the August 10, 2016 hearing is required.

-----  
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, Debtor's Attorney, and Office of the United States Trustee on July 12, 2015. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$5,750 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$5,407.50 is due prior to this hearing. Debtor has paid a total of \$153,677.50 into the plan thus far.

The court has considered the Trustee's reason for dismissal and finds it to be 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.

**Final Ruling:** No appearance at the June 22, 2016 hearing is required.  
-----

The Motion to Convert the Bankruptcy Case 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).

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

Correct 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 January 8, 2016. 28 days' notice is required.

The Motion to Convert the Bankruptcy Case 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 defaults of the non-responding parties and other parties in interest are entered.

<b>The Motion to Convert Case From Chapter 13 to Chapter 7 is granted.</b>
--

This Motion to convert the Chapter 13 bankruptcy case of Gary Lagree ("Debtor") has been filed by the Chapter 13 Trustee ("Movant"). Movant asserts that the case should be dismissed or converted based on the following grounds.

1. The Plan exceeds 60 months.
2. After confirmation, Debtor amended his schedules to reveal \$209,397.82 in nonexempt equity. To date, Debtor has failed to propose a modified plan increasing the dividend to unsecured creditors.

#### **DEBTORS' OPPOSITION**

The non-exempt assets disclosed by the Debtor are assets held in Slovenia - a Second World country in Southern Europe. At the Trustee's deposition, Debtor further explained that the value of these non-exempt

assets at the start of this case (February 26, 2014) was near nothing. These assets appreciated in value thereafter due to Debtor's post-petition efforts such as flying to Slovenia, hiring attorneys in that country, and prosecuting civil actions on behalf of the estate.

## **LEGAL STANDARD**

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9<sup>th</sup> Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause....

11 U.S.C. § 1307(c). The court engages in a "totality-of circumstances" test, weighing facts on a case by case basis in determining whether cause exists, and if so, whether conversion or dismissal is proper. *In re Love*, 957 F.2d 1350 (7th Cir. 1992). Bad faith is one of the enumerated "for cause" grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 113 FN.4, (B.A.P. 9th Cir. 2011), citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

## **DISCUSSION**

On June 15, 2016, parties filed a stipulation to continue this motion to August 10, 2016 on the basis that Debtor's new attorney is working with Trustee to resolve this matter. The motion is continued to August 10, 2016.

The docket does not reflect that Debtor has filed a modified plan. The court has no evidence that the matter has been resolved.

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 Convert 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 Convert Case of Gary Lagree From Chapter 13 to Chapter 7 is granted.

48. [16-21955](#)-C-13 MARCY VAUGHN  
Candace Brooks

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-5-16 [[24](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
-----

The Order to Show Cause was served by the Clerk of the Court on Marcy Ann Vaughn ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on July 5, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 28, 2016).

**The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.**

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

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 case shall proceed in this court.

49. [13-20356](#)-C-13 HENRY/KATHERINE KANAE  
DPC-9 Peter Macaluso

MOTION TO DISMISS CASE  
7-13-16 [[139](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

50. [13-33356](#)-C-13 MELISSA CORDOVA  
DPC-4 Diana Cavanaugh

MOTION TO DISMISS CASE  
7-13-16 [[76](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal

Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

51. [15-28757](#)-C-13 MAIA MORTON  
DPC-1 Gary Fraley

CONTINUED MOTION TO DISMISS  
CASE  
5-24-16 [[20](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Tentative Ruling:** The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the 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 offers 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.

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)(iii).**  
-----

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

Correct 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 August 21, 2014. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$2,800 to date with the last payment received on May 9, 2016. Debtor is delinquent \$2,800 in plan payments. Debtor is missing payments for March, April, June and July 2016.

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.

53. [12-27059](#)-C-13 JOHN/MICHELE HUNTER  
DPC-1 Melissa Polk

CONTINUED MOTION TO DISMISS  
CASE  
5-25-16 [[154](#)]

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on May 25, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss.</b>
--

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$169,273.34 to date with the last payment received on March 29, 2016. Trustee shows a total of \$177,368.83 is due, thus Debtor is delinquent \$8,095.49 in plan payments. Prior to the hearing on this matter, a payment of \$4,183.77 will come due. As a result, Debtor will need to pay \$12,279.26 in order to bring the plan current as of the date of this hearing.

#### **DEBTORS' OPPOSITION**

Debtors oppose the instant motion, asserting they are only delinquent \$4,183.77 in plan payments because Debtors mailed a payment of \$4,183.77 to Trustee's office on May 20, 2016. They state there was no payment for the



month of April. Debtors propose to catch up on the one month delinquency by payment \$6,275.66 by June 20, 2016 and \$6,275.66 by July 20, 2016.

#### **JUNE 22, 2016 HEARING**

Previously, the Chapter 13 Trustee and Debtors filed a stipulation, Dckt. 160, to continue the hearing on this matter to August 10, 2016 at 10:00 a.m. in order to resolve an issue with the Wells Fargo mortgage payment change. The court approved the stipulation.

#### **DISCUSSION**

The docket does not reflect that any subsequent briefs or status updates have been filed in the instant case to resolve the aforementioned matter. Debtor's basis for seeking dismissal remains outstanding, and Debtor continues to remain in material default pursuant to the terms of the confirmed plan, 11 U.S.C. § 1307(c)(6).

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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on May 25, 2016. 28 days' notice is required. This requirement was met.

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 decision is to deny the Motion to Dismiss.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c). Section 5.03 of the plan provides that if the plan defaults under the plan or if the plan will not complete within 6 months of the stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion and setting it for hearing.

According to Trustee's calculation, the plan will complete in 129 months not 60 months, exceeding the maximum amount of time allowed under 11 U.S.C. § 1322(d). Debtor has promised to but not made increases for previous mortgage increases. Debtor must modify the plan.

**DEBTORS' OPPOSITION**

Debtors oppose this motion, stating they will file, set, and serve a modified plan prior to this hearing.

**JUNE 22, 2016 HEARING**

At the previous hearing, the court continued the instant motion pursuant to the agreement of the Trustee.

**DISCUSSION**

Debtors have asserted that they would file, set, and serve a modified plan and set it for hearing prior to the hearing on this motion. The docket reflects that Debtors have, on August 3, 2016, filed, set for hearing on September 13, 2016, and served a modified plan that attempts to remedy the issue raised by Trustee, which is that the plan will not be completed within 60 months which is the maximum amount of time allowed under 11 U.S.C. § 1322(d). The payments proposed by the modified plan are \$1,535 per month, and whereas previously the plan provided for a 4% return to unsecured creditors, the modified plan provides 0% to unsecured creditors. The court is satisfied that Debtors are taking steps to prosecute their chapter 13 case, and will deny this motion to dismiss.

Cause does not exist to dismiss this case. The motion is denied and the case is not 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 denied and the case is not dismissed.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$67,080 to date with the last payment received on July 11, 2016. Trustee shows a total of \$70,800 is due, thus Debtor is delinquent \$3,720 in plan payments. Prior to the hearing on this matter, a payment of \$2,360 will come due. As a result, Debtor will need to pay \$6,080 in order to bring the plan current as of the date of this 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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.

-----  
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, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$30,544 to date with the last payment received on June 21, 2016. Trustee shows a total of \$35,120 is due, thus Debtor is delinquent \$4,576 in plan payments. Prior to the hearing on this matter, a payment of \$3,800 will come due. As a result, Debtor will need to pay \$8,376 in order to bring the plan current as of the date of this 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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

58. [13-35963](#)-C-13 DEREK CASEBEER AND ERICA  
DPC-4 WHEELER-CASEBEER  
Richard Jare

MOTION TO DISMISS CASE  
7-13-16 [[63](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$72,810 to date with the last payment received on May 16, 2016. Trustee shows a total of \$76,260 is due, thus Debtor is delinquent \$3,450 in plan payments. Prior to the hearing on this matter, a payment of \$1,860 will come due. As a result, Debtor will need to pay \$5,310 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtors respond to Trustee's motion to dismiss, stating that Debtors intend to be current by the date of hearing on this motion.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel.



Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is delinquent \$13,372 under the terms of the modified plan confirmed November 23, 2015. Trustee shows a total of \$123,072 is due through June 2016, the debtors have made twenty four payments totaling \$109,700 with the last payment posted June 27, 2016.

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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. That requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$6,892.48 to date with the last payment received on April 15, 2016. Trustee shows a total of \$8,676.40 is due, thus Debtor is delinquent \$1,783.92 in plan payments. Prior to the hearing on this matter, a payment of \$594.64 will come due. As a result, Debtor will need to pay \$2,378.56 in order to bring the plan current as of the date of this 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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on May 25, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to continue the Motion to Dismiss to August 16, 2016 at 2:00 p.m.</b>
--

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtors are not in compliance with an Order Granting Motion To Sell, granted February 9, 2016, Dckt. No. 55. Debtors were to sell personal residence located at 8845 Brittany Park Drive, Sacramento, California. \$10,000 of the proceeds were to be turned over to Trustee to be held and released pending a court order for relocation expenses. To date, Trustee has no knowledge of the sale having occurred.

**DEBTORS' OPPOSITION**

Debtors assert that they have conveyed to their counsel that they wish to keep their Chapter 13 case active if possible. Though the funds that the Trustee seek are no longer available, Debtors have expressed a willingness direct the equivalent amount of the funds to the Trustee, if given a chance to do so over time.

Debtors have had preliminary discussions with their counsel on filing an Amended Chapter 13 Plan to replenish the funds that were to be directed to the Trustee.

In the event that Debtors present a Modified Chapter 13 Plan that sufficiently resolves the Trustee's concerns, Debtors request that the Court deny the Trustee's Motion to Dismiss Case.  
JUNE 22, 2016 HEARING

At the June 22, 2016 hearing, the court set a briefing schedule, issued an order to show cause to debtors and debtors' counsel, and continued the instant motion to be heard after the order to show cause was heard.

#### **DISCUSSION**

The court having continued the Order to Show Cause, Dckt. 69, to August 16, 2016 at 9:30 am, the court will continue the instant motion to be heard after the hearing on the order to show cause.

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 continued to August 16, 2016 at 2:00 p.m.

**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, 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 Manuel and Lori Garcia, "Debtor," Trustee, and other parties in interest on June 29, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on June 24, 2016).

<p><b>The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.</b></p>
--

The court's docket reflects that the default has not been cured. The following filing fees are delinquent and unpaid by Debtor: [\$77.00].

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 other sanctions are issued pursuant thereto, and the case is dismissed.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on June 22, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is \$2,741 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,741 is due June 25, 2016. Debtors have paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).

**DEBTORS' OPPOSITION**

Debtors respond stating their intent to be current on the plan payments by the date of hearing.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income. Moreover, Debtors are also delinquent in two filing fee



installments.

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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor is \$330 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$330 is due July 25, 2016. The case was filed on May 19, 2016, and Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).

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.

67. 12-40170-C-13 TROY THOMAS MOTION TO DISMISS CASE  
DPC-1 Kristy Hernandez 7-12-16 [60]

**Final Ruling:** No appearance at the September 10, 2014 hearing is required.

-----  
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, Debtor's Attorney, and Office of the United States Trustee on xxxx, 2014. 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). 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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$26,455 to date with the last payment received on June 30, 2016. Trustee shows a total of \$28,545 is due, thus Debtor is delinquent \$2,100 in plan payments. Prior to the hearing on this matter, a payment of \$915 will come due. As a result, Debtor will need to pay \$3,015 in order to bring the plan current as of the date of this hearing.

On July 27, 2016, Debtor filed a motion of non-opposition to dismissal of the chapter 13 case. Dckt. 64.

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.

68. [15-26270](#)-C-13 ALEJANDRO REYES  
DPC-2 Richard Jare

CONTINUED MOTION TO DISMISS  
CASE  
5-24-16 [[76](#)]

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on May 24, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$24,600 to date with the last payment received on May 11, 2016. Trustee shows a total of \$25,600 is due, thus Debtor is delinquent \$1,000 in plan payments. Prior to the hearing on this matter, a payment of \$3,200 will come due. As a result, Debtor will need to pay \$4,200 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtor opposes this motion, stating in his declaration that he has cured the delinquency and will pay \$1,200 more within a week to fulfill the May 25, 2016 payment.

**JUNE 22, 2016 HEARING**

At the previous hearing, the court continued the instant motion in order to permit Debtor additional time to cure the delinquency in his case.

**DISCUSSION**

Although Debtor has submitted a declaration averring that he has paid an amount to cure the delinquency and that he would pay a sufficient amount to fulfill the May 2016 payment, and the court continued the previous hearing date in order to permit additional time for payment of the missed plan payments, the court has not received confirmation from the Chapter 13 Trustee that the delinquency has actually been cured.

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.

Also #70

**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, the court will make the following findings of fact and conclusions of law:

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The Order to Show Cause was served by the Clerk of the Court on Susan Delcina Laughery, "Debtor," Trustee, and other parties in interest on July 20, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on July 15, 2016).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
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The court's docket reflects that the default has not been cured. The following filing fees are delinquent and unpaid by Debtor: [\$77.00].

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 sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

**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).

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.**

-----  
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 Debtor (*pro se*), and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors on July 17, 2016. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor is \$2,000 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,000 is due July 25, 2016.
5. Debtor did not disclose 3 prior cases on the petition: (1.) case no. 16-22149 filed April 5, 2016; (2.) case no. 16-20600 filed February 3, 2016; case no. 15-27551 filed September 28, 2015.

Trustee has raised valid basis for concern, demonstrating Debtor's unwillingness to participate and prosecute this chapter 13 case. 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.



**Tentative Ruling:** The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the 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 offers 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.

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)(iii).**  
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Local Rule 9014-1(f)(2) Motion.

Correct 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 July 27, 2016. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. At the hearing -----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$14,675 to date with the last payment received on June 17, 2016. Debtor is delinquent \$11,005 in plan payments. Payments have been made sporadically with amounts being inconsistent with scheduled plan payment amounts.

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.

72. [16-23373](#)-C-13 PETR ANDRICHUK  
DPC-2 Pro Se

MOTION TO DISMISS CASE  
7-13-16 [[23](#)]

**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).

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.**

-----  
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 Debtor (*pro se*), Debtor's Attorney, and Office of the United States Trustee on July 13, 2015. 28 days' notice is required. That requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
3. Debtor is \$75 delinquent in plan payments to the Trustee to date and

the next scheduled payment of \$75 is due July 25, 2016. The case was filed on May 24, 2016, and Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).

#### **DEBTOR'S OPPOSITION**

Debtor opposes the motion, stating that the documents were in fact filed with the court but were filed incorrectly by some mistake. These mistakes have been corrected on the schedules and will be filed.

#### **DISCUSSION**

Although Debtor asserts that certain steps will be taken towards remedying the missing documents. However, stating an intent to file certain documents is not evidence that these deficiencies have been cured. Moreover, Debtor makes no mention of curing the default in plan payments, and has to date paid \$0 into the 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.

**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).

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.**

-----  
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 Debtor (*pro se*), and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
2. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).

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.

74. [16-23975](#)-C-13 RODNEY RETZLOFF  
Michael Benavides

ORDER TO SHOW CAUSE -FAILURE  
TO PAY FEES  
7-25-16 [[19](#)]

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on Rodney Retzliff ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on July 25, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on July 20, 2016).

<b>The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.</b>
--

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

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 case shall proceed in this court.

**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).

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.**

-----  
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 Debtor, Debtor's Attorney, and Office of the United States Trustee on April 15, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c). Debtor failed to provide for the priority claim of the Internal Revenue Service, Claim No. 1, in the amount of \$78,505.61. Section 2.13 makes this a breach of the plan. Debtor's plan confirm April 30, 2015 provides for a secured claim of the IRS for 2008-2011 taxes in the amount of \$78,505.61 as Class 4 to be paid by Debtor's ex-husband. The claim filed by the IRS reports the last 4 digits of the taxpayer ID number as 7449. This is not the last 4 digits of the Debtor.

**DEBTOR'S OPPOSITION**

Debtor responds, stating that Debtor is not in material default as the claim for the IRS, Claim No. 1, is to be paid directly by Debtor's ex-husband. Debtor is current under the terms of the confirmed plan.

**MAY 18, 2016 HEARING**

At the previous hearing, the court continued the instant motion, raising that a look at the Proof of Claim filed by the Internal Revenue Service reveals that indeed, the taxpayer ID number identifying the taxpayer responsible for the claim amount is not Debtor's social security number. The court assumes that the taxpayer ID number in the IRS's proof of claim is that of Debtor's ex-husband for taxes incurred during a period when Debtor

and her ex-husband were married. The IRS has filed Proof of Claim No. 1, providing that Debtor is responsible for the priority tax in the amount of \$78,505.61. The docket reflects that Debtor has not filed an Objection to Claim of the Internal Revenue Service, and Debtor does not attempt to dispute that Debtor may be jointly responsible for this priority tax debt. Debtor merely states in her plan and opposition that the amount is to be paid directly by Debtor's ex-husband, with nothing further to substantiate this proposition. Debtor does not provide the declaration of her ex-husband to substantiate that he will be paying for this debt, and thus the court is not convinced that Debtor is not in material default with respect to a term of the confirmed plan. The court continued the motion to permit Debtor additional time to remedy the issue or clarify with the court the status of the claim raised by chapter 13 trustee.

#### **DECLARATION OF DEBTOR**

On June 14, 2016, Debtor filed a supplemental declaration providing that Debtor lives at 3206 Europa Street, Roseville, California. Debtor states she has 1 job with a start date of May 16, 2016 with a gross annual salary of \$100,000.00 per month, and a net bi-weekly income of \$2,769.13 after deductions. Debtor further provides that she worked with Martin Flyer Jewelry for a short time, and had two deposits with Martin Flyer Jewelry of \$3,000. Finally, Debtor states that she has a roommate that pays \$1,350 per month in rent, which is why there are occasional deposits in her account of \$1350.

#### **DISCUSSION**

The court is puzzled as to why Debtor has provided to the court, in this supplemental declaration, an update as to Debtor's employment and explanations as to certain expenses and credits in her banking account, in response to chapter 13 trustee's motion to dismiss. Trustee raises issue with a large tax debt in the amount of \$78,505.61 asserted by the IRS which Debtor asserts is owed by her ex-husband while they were married. The proof of claim remains unchanged, Proof of Claim No. 1, Amended 01/16/16. Debtor has not assuaged the court's concern that she was or is not jointly liable for the tax debt, and instead appears to provide information to the court as to her current employment status rather than a declaration by her ex-husband that he will assume all liability for the tax debt at issue.

Moreover, if Debtor is not liable for this claim, the court docket does not reflect that Debtor has filed an Objection to Proof of Claim No. 1 of the IRS. The court is not convinced the Debtor is not in material default with respect to a term of the confirmed 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.

76. [15-23676](#)-C-13 GLENDA MOORE  
DPC-2 Brian Turner

MOTION TO DISMISS CASE  
7-13-16 [[60](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that:

1. Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c). Section 5.03 of Debtor's plan states "If Debtor defaults under this plan, or if the plan will not be complete within six months of its stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion and setting it for hearing pursuant to Local Bankruptcy Rule 9014-1." This plan, according to Trustee's calculations, will complete in 177 months as opposed to 60 months.
  - a. It appears the class 1 mortgage arrears claim was \$6,876.28 more than was scheduled.
2. Debtor is delinquent \$4,840.58 under the terms of the plan confirmed 07/08/15. \$24,110.58 has become due. Debtor has paid a total of \$19,270. The last payment was processed 06/20/16.

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.

77.	<a href="#">15-28677</a> -C-13	TRINA MCKIE	MOTION TO DISMISS CASE
	DPC-1	Thomas Amberg	7-12-16 [ <a href="#">60</a> ]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
-----

The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Final Ruling:** No appearance at the September 10, 2014 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 5, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$5,786.82 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,893.41 is due July 25, 2016. The case was filed on April 6, 2016, and Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).
2. Debtor admitted at the first meeting held on June 16, 2016 that she had not filed tax returns for 2014 and 2015. Debtors are required to have filed all tax returns as of the conclusion of the first meeting for the 4 years preceding the filing of the petition, 11 U.S.C. § 1308 and 1325(a)(9).
3. The case was filed April 6, 2016 and Debtor has yet to confirm a plan. Trustee's objection to confirmation, DPC-1, was heard and sustained at the hearing on June 14, 2016 and the Debtor has failed to mend the plan and set a confirmation hearing to date.
4. Debtor has not provided Trustee with a business documents. 11 U.S.C. § 521(e)(2)(A).

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.

80. [13-20779](#)-C-13 JEANNE HOPKINS  
DPC-1 Marc Carpenter

CONTINUED MOTION TO DISMISS  
CASE  
4-15-16 [[30](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. This requirement was met.

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 decision is to deny the Motion to Dismiss.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$20,495 to date with the last payment received on June 13, 2016. Trustee shows a total of \$23,280 is due, thus Debtor is delinquent \$2,785 in plan payments. Prior to the hearing on this matter, a payment of \$780 will come due. As a result, Debtor will need to pay \$3,565 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtors respond, stating that Debtors are currently working with their counsel to prepare and sign the documents required to convert the case to chapter 7. The requisite documents shall be filed with the court prior to the hearing on the instant motion.

**DISCUSSION**

The court docket reflects that on August 4, 2016, there was a notice of voluntary conversion from chapter 13 to chapter 7, Dckt. 103. The court will deny the chapter 13 trustee's motion to dismiss.

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 denied and the case is not dismissed.

82. [16-21280](#)-C-13 EMILIO VILCHEZ-LANZAS MOTION TO DISMISS CASE  
DPC-1 W. Scott de Bie 7-12-16 [[17](#)]

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

83. [12-24684](#)-C-13 MAURICE COLEMAN AND MOTION TO DISMISS CASE  
DPC-1 RAQUEL HERNANDEZ - **COLEMAN** 7-13-16 [[47](#)]  
Peter Macaluso

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$33,577.40 to date with the last payment received on May 10, 2016. Trustee shows a total of \$37,026.56 is due, thus Debtor is delinquent \$3,449.16 in plan payments. Prior to the hearing on this matter, a payment of \$1,157.08 will come due. As a result, Debtor will need to pay \$4,606.24 in order to bring the plan current as of the date of this 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.



**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$4,800 to date with the last payment received on May 19, 2016. Trustee shows a total of \$5,600 is due, thus Debtor is delinquent \$800 in plan payments. Prior to the hearing on this matter, a payment of \$400 will come due. As a result, Debtor will need to pay \$1,200 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtor responds stating that she will not be able to bring the account current. Due to ATM card malfunction, the money for resumption of payments which was expected earlier this week still cannot be accessed as of last night.

**DISCUSSION**

Debtor expresses that she has experienced difficulty with an automated teller machine card malfunction, however does nothing by way of assuring the court that funds are actually available to pay \$1,200 to bring the account current. Moreover, an "ATM malfunction" does not explain why debtor is unable to completely access the funds in some other manner, by check or by physically entering the bank. The court finds Debtor's explanation to be

unsatisfactory and does not sufficiently reassure the court that Debtor can make up the delinquency. 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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

87. [16-23487](#)-C-13 SHAMEKA BATTE  
Pro Se

ORDER TO SHOW CAUSE -FAILURE  
TO PAY FEES  
7-1-16 [[18](#)]

Also #88

**Final Ruling: No appearance at the August 10, 2016 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on Shameka Batte ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on July 1, 2016.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on June 27, 2016).

<b>The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has been cured.

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 case shall proceed in this court.

**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).

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.**

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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 Debtor (*pro se*), and Office of the United States Trustee on July 13, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
---

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors on July 7, 2016. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor is \$25 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$25 is due July 25, 2016. The case was filed on May 27, 2016, and Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).

**DEBTOR'S OPPOSITION**

Debtor responds stating that he issues have been resolved, that she has filed income tax return for the recent pre-petition tax year and therefore no such documentation exists to provide to Trustee at this time. Debtor states she has mailed copies of 60 days of pay advices, and made two plan payments for June 25 and July 25, 2016.

#### **DISCUSSION**

The court is not satisfied that Debtor has cured the defaults raised by Trustee. First, Debtor states that she cannot provide tax returns for the recent pre-petition tax year because she has just filed them, however the court is not satisfied with this explanation. If Debtor had filed such tax returns, Debtor should have copies of the tax returns filed to convey to trustee and the court. Moreover, Debtor has not provided evidence upon which the court may rely by way of declaration to aver that such tax returns were filed. Second, Debtor states that she is current on plan payments and on providing Trustee with pay advices, however has provided no proof to the court that these actions have occurred. 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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$51,924 to date with the last payment received on December 3, 2015. Trustee shows a total of \$106,391 is due, thus Debtor is delinquent \$54,467 in plan payments. Prior to the hearing on this matter, a payment of \$7,781 will come due. As a result, Debtor will need to pay \$62,248 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtor opposes the instant motion, asserting that she will be current on plan payments by the date of hearing.

**DISCUSSION**

Although Debtor has stated their intent to be current by the date of hearing, she has not provided evidence to the court that she is actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such

contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

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.



**Final Ruling:** No appearance at the August 10, 2015 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 6, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors on June 30, 2016. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor is \$2,500.94 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,500.94 is due July 25, 2016. Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).
3. Debtor has not provided Trustee with 60 days of employer payment advices received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a)(1)(B)(iv).
4. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report 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. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(i).

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.

**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).

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.**

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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 Debtor, Debtor's Attorney, and Office of the United States Trustee on June 21, 2016. 28 days' notice is required. This requirement was met.

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).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is currently in an active case, case no. 14-29900 filed on October 2, 2014 and confirmed January 16, 2016. According to Pacer, Debtor's counsel Peter Macaluso was contacted June 3, 2016 regarding an incorrectly submitted request for dismissal which was apparently never addressed by debtor or counsel.
2. The current case was filed May 12, 2016. On the voluntary petition, the attorney of record is Anthony Hughes of the Law Office of Peter Macaluso, with Mr. Hughes' signature as /s/. On June 2, 2016, Neil Enmark, staff attorney for David P. Cusick, phone Peter Macaluso regarding the signature on debtor's petition. Mr. Enmark was advised that there be a correction filed. To date, no amended plan has been filed with the court.

**DEBTOR'S OPPOSITION**

Debtor opposes this motion to dismiss, providing that Debtor's counsel originally filed the request for dismissal on June 2, 2016 with both the request and order as part of the same file. Counsel did not become aware of the error until the instant motion was filed. The request for dismissal was

refiled with order on July 22, 2016. The order dismissing Debtor was docketed July 25, 2016. Debtor's counsel on his prior case was Anthony Hughes. Mr. Hughes sent Mr. Macaluso Debtor's bestcase bankruptcy software file to assist with building Debtor's new case. Because this was a skeletal filing, counsel failed to correct the attorney of record in the bankruptcy software. Debtor's counsel received a call from the U.S. Trustee shortly after filing with regard to Mr. Hughes' signature being incorrectly included on Debtor's petition. The issue was resolved with the US Trustee, but Debtor's counsel did not realize that a formal amendment needed to be made. Debtor filed an amended voluntary petition on July 25, 2016 with the correct electronic signature.

## **CHAPTER 13 TRUSTEE REPLY**

Chapter 13 Trustee replies to Debtor's opposition, providing that Trustee agrees that case 14-29900 appears to be dismissed. Debtor has not addressed why filing a new case while have an active chapter 13 with a confirmed plan and no motion to dismiss pending does not result in unreasonable delay. Second, Debtor's attorney has explained why another attorney's name appears on the petition other than his own, and while he has filed an amended petition, he has not filed the original signature page.

## **DISCUSSION**

The court agrees that Trustee has raised cause for concern in this case. At numerous turns, there are examples of careless mistakes and errors that cause unnecessary strain on court resources.

First, Debtor had another active case pending before Judge Jaime, Case No. 14-29900-B-13, at the time that Debtor filed the instant case. The instant case was filed on May 12, 2016. Case No. 14-29900 was not dismissed by Debtor until July 22, 2016, over two months after filing the instant chapter 13 bankruptcy. Not only does this cause confusion and delay for creditors, as well as the court, the court might be inclined to believe that Debtor is forum or "judge shopping," indicating bad faith of the debtor. While the court will decline to do so at this time, as the court believes the errors were indeed cause by counsel's carelessness and not indicative of debtor's bad faith, counsel would be wise to take note of how certain errors may come across to the court.

Counsel, Mr. Macaluso, explains to the court that he attempted to dismiss case 14-29900 on June 2, 2016, and that he erred in not filing the request for dismissal and the order separately. However, aside from the mistake he made which resulted in the case being dismiss over a month and a half later, he does not explain why he would filed a second (the instant) chapter 13 petition on May 22, 2016, then over 10 days later file a request to dismiss the prior one. Even if no error was made, the fact remains that an active chapter 13 case with a confirmed plan was pending before one court, no request for dismissal was filed in that case, and Debtor filed the instant chapter 13 case. The court agrees that Debtor has failed to explain how this does not cause unreasonable delay that is prejudicial to creditors, 11 U.S.C. § 1307(c).

Next, to explain why Mr. Anthony Hughes' signature appears on the instant case's petition for bankruptcy, Mr. Macaluso explain that another careless error was made when he imported information from debtor's previous counsel's software, and apparently mindlessly used this information to fill out the instant bankruptcy petition, and submitted the filing with another attorney's electronic signature. Not only does this raise questions as to

the thoroughness of counsel's representation of the debtor, the court questions whether counsel reviewed the case at all prior to seemingly blindly importing a previous attorney's software and submitting the information that previous attorney's software before the court.

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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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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, Debtor's Attorney, and Office of the United States Trustee on July 12, 2016. 28 days' notice is required. This requirement was met.

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.**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$105,400 to date with the last payment received on April 19, 2016. Trustee shows a total of \$114,700 is due, thus Debtor is delinquent \$9,300 in plan payments. Prior to the hearing on this matter, a payment of \$3,100 will come due. As a result, Debtor will need to pay \$12,400 in order to bring the plan current as of the date of this 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.

**Final Ruling:** No appearance at the August 10, 2016 hearing is required.  
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The Chapter 13 Trustee having filed an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, the ex parte motion being consistent with the opposition filed to the Motion, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.