



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, August 14, 2025
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. [25-11009](#)-A-13 **IN RE: JACKIE GALLEGOS**
[EPE-1](#)

MOTION TO CONFIRM PLAN
7-3-2025 [\[49\]](#)

JACKIE GALLEGOS/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

2. [25-11009](#)-A-13 **IN RE: JACKIE GALLEGOS**
[EPE-2](#)

MOTION TO VALUE COLLATERAL OF TOWER FEDERAL CU
7-17-2025 [\[59\]](#)

JACKIE GALLEGOS/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Federal Rule of Bankruptcy Procedure ("Bankruptcy Rule") 9014(b) requires a motion to value collateral to be served "in the manner provided for service of a summons and complaint by Rule 7004." Service of the motion on Tower Federal Credit Union ("Creditor") does not satisfy Bankruptcy Rule 7004.

Bankruptcy Rule 7004(b)(3) provides that service upon a domestic or foreign corporation, or a partnership or other unincorporated association be mailed "to the attention of an officer, managing or general agent, or to any other agent authorized by appointment or law to receive service of process[.]" Fed. R. Bankr. P. 7004(b)(3). The certificate of service filed in connection with this motion does not show that Creditor was correctly served to the attention of anyone. See Doc. #63.

As a further procedural matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked that service was effectuated by Rule 5 and Rules 7005, 9036 Service. Doc. #63. However, Bankruptcy Rules 4001(a)(1) and 9014 require service of a motion to value collateral be made pursuant to Bankruptcy Rule 7004. In Section 6, the declarant should have checked the appropriate box under Section 6A, not Section 6B.

Accordingly, this motion is DENIED WITHOUT PREJUDICE for improper service.

MOTION TO DISMISS CASE
7-14-2025 [\[22\]](#)

LILIAN TSANG/MV

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. 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 Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the default of the debtor is entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for the debtor's failure to make payments due under the plan. Doc. #22. As of July 14, 2025, payments are delinquent in the amount of \$688.94. Id. Additional plan payments will come due while this motion is pending. Id. In addition to the delinquency amount, Debtor must also make the monthly plan payment of \$344.47 for July 25, 2025. Id. The debtor did not oppose.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(4) because the debtor has failed to make all payments due under the plan.

A review of the debtor's Schedules A/B and D shows that there is no equity in the debtor's assets after considering secured claims and the debtor's claimed exemptions. Doc. #9. Because there is no equity to be realized for the benefit of the estate, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate.

Accordingly, the motion will be GRANTED, and the case dismissed.

4. [24-12116](#)-A-13 **IN RE: MICHAEL/VICTORIA BUTLER**
[BDB-1](#)

CONTINUED AMENDED MOTION TO MODIFY PLAN
5-30-2025 [\[46\]](#)

VICTORIA BUTLER/MV
BENNY BARCO/ATTY. FOR DBT.
RESPONSIVE PLEADING WITHDRAWN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance
with the ruling below.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The chapter 13 trustee ("Trustee") timely opposed this motion but withdrew the opposition, stating the debtors have resolved the issues raised in Trustee's opposition. See Opp'n, Doc. #48; Opp'n Withdrawal, Doc. #54. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion, and it shall reference the plan by the date it was filed.

5. [25-11119](#)-A-13 **IN RE: GENEVA FARR**
[JRL-1](#)

MOTION TO CONFIRM PLAN
7-10-2025 [\[46\]](#)

GENEVA FARR/MV
JERRY LOWE/ATTY. FOR DBT.
WITHDRAWN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Movant withdrew the motion on August 1, 2025. Doc. #62.

6. [25-11225](#)-A-13 **IN RE: THERESA PICOU**
[LGT-2](#)

MOTION TO DISMISS CASE
7-7-2025 [\[36\]](#)

LILIAN TSANG/MV
DISMISSED 7/10/25

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on July 10, 2025. Doc. #41.
Therefore, this motion will be DENIED AS MOOT.

7. [25-10826](#)-A-13 **IN RE: ROMAN MORIN**
[LGT-2](#)

MOTION TO DISMISS CASE
7-14-2025 [\[42\]](#)

LILIAN TSANG/MV
DONALD IWUCHUKWU/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part if plan payments not current; the case
will be converted. Otherwise, continued to be heard at
the same date and time as a new motion to confirm plan.

ORDER: The minutes of the hearing will be the court's findings
and conclusions. The court will issue an order after the
hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). The debtor did not file timely written opposition to the motion to dismiss. However, on July 31, 2025, the deadline for filing written opposition, the debtor did file a motion to value collateral and a motion to confirm plan. Doc. ##46-55. The motion to confirm plan was set for hearing on less than the 35-days' notice required by LBR 3015-1(d)(1). Doc. ##53, 58. The court anticipates denying the motion to confirm without prejudice for improper notice.

Because the debtor has taken action to address the grounds on which the motion to dismiss is based, the matter will be heard as scheduled. The court intends to grant the motion to dismiss in part and convert the case to chapter 7 if plan payments owed by the debtor are not current as of the August 14, 2025 hearing. If the debtor's plan payments are current as of the August 14, 2025 hearing, the court is inclined to continue the motion to dismiss to be heard at the same date and time as a new motion to confirm plan.

Here, the chapter 13 trustee ("Trustee") asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors. Doc. #42. Specifically, Trustee asks the court to dismiss this case for the debtor's failure to: (1) set a modified plan for hearing with notice to creditors; and (2) make payments due under the plan. As of July 14, 2025, payments are delinquent in the amount of \$9,837.88. Additional plan payments will come due while this motion is pending. In addition to the delinquency amount, the debtor must also make the monthly plan payment of \$3,897.00 for July 25, 2025. Doc. #42.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(4) to dismiss this case if the debtor has failed to make all payments due under the plan.

According to Trustee's objection to confirmation of the debtor's chapter 13 plan, the case has a liquidation value of no less than \$26,672.00. Doc. #59. Thus, there appears to be significant non-exempt equity in the debtor's assets to be realized for the benefit of the estate if the debtor's bankruptcy case is converted to chapter 7 instead of being dismissed. The court finds that conversion, rather than dismissal, is in the best interests of creditors and the estate.

Accordingly, unless the debtor's plan payments are current as of the hearing, the motion will be GRANTED IN PART, and the case will be converted. If the plan payments are current as of the hearing, the motion to dismiss will be continued to be heard at the same date and time as a new motion to confirm plan.

8. [22-11145](#)-A-13 **IN RE: GUSTAVO BARRON**
[PLG-2](#)

MOTION TO MODIFY PLAN
7-10-2025 [\[53\]](#)

GUSTAVO BARRON/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 35 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. 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 Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral

argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion, and it shall reference the plan by the date it was filed.

9. [25-10922](#)-A-13 **IN RE: MANUEL MENDOZA**
[LGT-2](#)

CONTINUED MOTION TO DISMISS CASE
7-8-2025 [[38](#)]

LILIAN TSANG/MV
YASHA RAHIMZADEH/ATTY. FOR DBT.

NO RULING.

10. [25-12097](#)-A-13 **IN RE: MAGDALENA PUENTES JURAZ**
[DJP-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
7-3-2025 [[18](#)]

EDUCATIONAL EMPLOYEES CREDIT UNION/MV
PETER MACALUSO/ATTY. FOR DBT.
DON POOL/ATTY. FOR MV.

NO RULING.

11. [25-10352](#)-A-13 **IN RE: MARI RUB-FERRELL**

CONTINUED MOTION TO VACATE DISMISSAL OF CASE
7-16-2025 [[55](#)]

MARI RUB-FERRELL/MV
DISMISSED 06/04/2025

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted if the chapter 13 trustee confirms that all grounds for dismissing this case have been addressed by the debtor.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was originally set for hearing on August 7, 2025 on the court's order entered on July 17, 2025. Doc. #56. However, the debtor did not appear at the hearing but subsequently explained to the court that she had used the

incorrect Zoom link to appear, and the court continued the hearing to August 14, 2025. Doc. #61.

Because the hearing was set on less than 28 days' notice, opposition can be presented at the hearing. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion only if the chapter 13 trustee confirms that all grounds that caused the dismissal of the debtor's bankruptcy case have been addressed by the debtor. If opposition is presented at the hearing, the court will consider the opposition and whether a further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This chapter 13 bankruptcy was filed on February 7, 2025. Doc. #1. The chapter 13 debtor, Mari Rub-Ferrell ("Debtor"), is not represented by an attorney. Doc. #1.

On April 11, 2025, the chapter 13 trustee ("Trustee") filed a motion to dismiss this case for unreasonable delay by Debtor in prosecuting this bankruptcy case ("Motion to Dismiss"). Specifically, Trustee moved to dismiss Debtor's bankruptcy case because Debtor failed to: (1) appear at the scheduled § 341 meeting of creditors; (2) provide Trustee with required documents; (3) file a complete plan (Sections 2.03, 3.12, 3.14 and 6.02 of the chapter 13 plan filed on February 20, 2025 [Doc. #16] were blank); (4) file accurate schedules and/or statements; and (5) commence making payments due under the plan. Doc. #30.

On June 4, 2025, a hearing was held on the Motion to Dismiss. Debtor did not file a written opposition to the Motion to Dismiss as required by this court's Local Rules of Practice, and Trustee did not withdraw the Motion to Dismiss. Therefore, an order dismissing Debtor's bankruptcy case was entered on June 4, 2025. Doc. #44.

On June 26, 2025, Debtor filed a motion to vacate the dismissal of her bankruptcy case ("Ex Parte Motion"). Doc. #47. On June 27, 2025, the court denied the Ex Parte Motion because Debtor did not provide any reasons why the court should vacate the dismissal of Debtor's case. Doc. #50.

On July 16, 2025, Debtor filed another motion to vacate the dismissal of her bankruptcy case ("Motion to Vacate") and provided several reasons why the court should grant that request. Doc. #55. In the Motion to Vacate, Debtor states that she is not receiving emails or mail at the address that is on file with the court. Doc. #55. Debtor asserts that the court's docket indicates that Debtor appeared at all meeting of creditors. Doc. #55. Debtor also asserts that she has provided all required documents to Trustee's office as of July 8, 2025 and has made all payments owed to Trustee. Doc. #55. The court notes that documents Debtor states are attached to the Motion to Vacate are not attached to the motion that was filed with the court. Doc. #55. The court set a hearing on the Motion to Vacate. Doc. #56.

Debtor seeks relief pursuant to Federal Rule of Civil Procedure ("Rule") 60(a) (made applicable by Federal Rule of Bankruptcy Procedure 9024). Doc. #55. Rule 60(a) allows the court to "correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Rule 60(a) "finds application where the record makes apparent that the court intended one thing but by merely clerical mistake or oversight did another." United States v. Kellogg (In re West Tex. Mktg. Corp.), 12 F.3d 497, 503 (5th Cir. 1994) (citations omitted). "The rule allows courts to modify their judgment in order to insure that the record reflects the actual intentions of the court and the parties." Id. at 504.

Here, the grounds upon which Debtor's bankruptcy case was dismissed are not actions taken by the court. Therefore, it is not apparent on the record "that the court intended one thing but by merely clerical mistake or oversight did another," so Rule 60(a) does not apply.

The legal basis for the relief sought in the Motion to Vacate is Rule 60(b), which permits the court to grant relief from a final order for, *inter alia*, mistake, inadvertence, surprise, excusable neglect, or any other reason that justifies relief. Rule 60(b)(1), (6). A motion to reconsider an order is an "extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources." Kona Enters. v. Estate of Bishop, 299 F.3d 877, 890 (9th Cir. 2000); see also Berman v. Freedom Fin. Network, LLC, 30 F.4th 849 (9th Cir. 2022) (applying the standard to Rule 60(b)).

This determination is "an equitable one, taking account of all relevant circumstances surrounding the party's omission." Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395 (1993). The factors to consider include: (1) danger of prejudice to the debtor; (2) length of delay and potential impact on judicial proceedings; (3) reason for the delay, including whether it was in the movant's control; and (4) whether the party acted in good faith. Id.

Debtor has not provided any information with respect to the first Pioneer factor – the prejudice to Debtor if the court does not vacate the dismissal of Debtor's bankruptcy case. At the hearing, the court will permit Debtor to explain how denying the Motion to Vacate would prejudice Debtor.

With respect to the second Pioneer factor, the court finds that the delay between dismissal and the Motion to Vacate is nominal. The order dismissing Debtor's case was entered on June 4, 2025, and Debtor's first motion to vacate, the Ex Parte Motion, was filed on June 26, 2025. Debtor's second Motion to Vacate was filed on July 16, 2025. This factor favors vacating the dismissal order.

With respect to the third and fourth Pioneer factors, Debtor did not file a timely written response to the Motion to Dismiss, although Debtor claims she is not receiving letters to her address that is on file with the court. Doc. #55. Under the mailbox rule, the proper and timely mailing of a document raises a rebuttable presumption that the document was received by the addressee. Schikore v. BankAmerica Supplemental Ret. Plan, 269 F.3d 956, 961 (9th Cir. 2001); CUNA Mut. Ins. Grp. v. Williams (In re Williams), 185 B.R. 598, 599 (B.A.P. 9th Cir. 1995). The mailbox rule functions to "aid finders of fact in circumstances where direct evidence of either receipt or non-receipt is, as here, not available." Schikore, 269 F.3d at 961-62. "This rule is a key support of the bankruptcy system's notice by mail." Williams, 185 B.R. at 599.

"Denial of receipt does not rebut the presumption of receipt; it creates a question of fact." Leventhal v. Schenberg, 484 B.R. 731, 7344 (N.D. Ill. 2012) (citing Longardner & Assocs., Inc., 855 F.2d 455, 459 (7th Cir. 1988)). As explained by the Ninth Circuit in Nunley, "[e]ven after the 'bubble' of presumption has 'burst,' the factual question of receipt remains and may be decided in favor of receipt by a fact finder who may choose to draw inferences of receipt from the evidence of mailing, in spite of contrary evidence." Nunley, 52 F.3d at 796 (citing In re Yoder Co., 758 F.2d 1114, 1119 n.8 (6th Cir. 1985)). Once the presumption created by the mailbox rule is rebutted, "the evidence must be weighed. Of course this leaves it to the fact finder whether, under the specific facts, the bare denial of receipt is sufficient to carry the movant's burden of proof." In re Todd, 441 B.R. 647, 651 (Bankr. D. Ariz. 2011).

At the hearing, the court will ask Debtor to explain, in more detail, her statement that Debtor is not receiving any type of letters to her address that is on file with the court.

Turning to the other grounds for dismissal asserted by Trustee in the Motion to Dismiss:

(1) Appear at the scheduled § 341 meeting of creditors. Based on the court's docket, it appears that Debtor did appear at the initial and continued meetings of creditors that were scheduled prior to Debtor's bankruptcy case being dismissed. See court docket entry entered on March 18, 2025; court docket entry entered on April 30, 2025. Thus, it appears that dismissal on the basis of Debtor's failure to appear at the scheduled 341 meeting of creditors was incorrect. This fact favors vacating the dismissal order.

(2) Provide Trustee with required documents. Debtor asserts that she has provided all required documents to Trustee. The court will confirm that is the case with Trustee at the hearing on the Motion to Vacate. If all documents have been provided to Trustee, that fact would support vacating the dismissal.

(3) File a complete plan (Sections 2.03, 3.12, 3.14 and 6.02 of the chapter 13 plan filed on February 20, 2025 [Doc. #16] were blank). Based on the court's docket, it appears that Debtor filed a complete plan on June 26, 2025, after the court dismissed Debtor's case. Doc. #48. However, there are still sections of the plan which remain blank.

First, it appears that the Trustee meant to assert that section 6.01 of the chapter 13 plan is blank instead of section 6.02 as stated in Trustee's motion to dismiss. The court will confirm this is the case with Trustee at the hearing on the Motion to Vacate. Regardless, the first plan filed on February 20, 2025 and the subsequent plan filed on June 26, 2025 both have sections 6.02 blank. Second, section 2.03 remains blank on both plans filed by Debtor. If it is determined that the plan is still incomplete, this fact favors denying the Motion to Vacate.

(4) File accurate schedules and/or statements. Based on the court's docket, it appears that Debtor filed amended schedules and/or statements on June 26, 2025, after the court dismissed Debtor's case. Doc. #49. If the amended schedules and/or statements are accurate, this fact would support vacating the dismissal.

(5) Commence making payments due under the plan. Debtor asserts that she has made all payments due under the plan. The court will confirm that is the case with Trustee at the hearing on the Motion to Vacate. If Debtor was current in plan payments until the case was dismissed, that fact would support vacating the dismissal.

If the Trustee confirms that all grounds for prior dismissal have been addressed by Debtor, and pending opposition being raised at the hearing, the court is inclined to find that the Motion to Vacate satisfies the Pioneer factors and will GRANT the Motion to Vacate. The order vacating the dismissal of Debtor's chapter 13 bankruptcy case will be without prejudice to those parties in interest who acted in good faith relying on the dismissal.

11:00 AM

1. [25-10832](#)-A-7 **IN RE: FERNANDO LUGO CERVANTES**
[25-1013](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
4-2-2025 [1]

ORTIZ ET AL V. LUGO CERVANTES
STAN MALLISON/ATTY. FOR PL.

NO RULING.

2. [25-10233](#)-A-7 **IN RE: GERARDO CLAVEL CARTAGENA**
[25-1019](#)

ORDER TO SHOW CAUSE REGARDING DISMISSAL OF ADVERSARY PROCEEDING FOR
PROCEEDING FOR FAILURE TO PROSECUTE
7-10-2025 [8]

BROWN V. CLAVEL
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

On July 10, 2025, this court issued an order to show cause ("OSC") why this adversary proceeding should not be dismissed for lack of prosecution for the failure of the plaintiff to appear at the initial status conference held on July 10, 2025 at 11:00 a.m. Doc. #8. The OSC required any written response to be filed and served on or before July 31, 2025.

On July 31, 2025, the plaintiff filed a declaration explaining that the plaintiff did not receive notice of the initial status conference and did not expect that the initial status conference would be held so soon. Doc. #12. It appears that the plaintiff did not understand that the court, not the plaintiff, would generate a summons in this adversary proceeding. Id. The plaintiff also wrongly assumed that electronic service of the complaint on counsel for the defendant was all that was required to serve the complaint in this adversary proceeding. Id.

Based on the explanation provided by the plaintiff, the court finds that the failure of the plaintiff to (i) timely serve the complaint and related documents, and (ii) appear at the July 10, 2025 status conference to be excusable, and the court will not dismiss the adversary proceeding for lack of prosecution as set forth in the OSC. The OSC is vacated.

3. [25-10233](#)-A-7 **IN RE: GERARDO CLAVEL CARTAGENA**
[25-1019](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-8-2025 [[1](#)]

BROWN V. CLAVEL
S. BROWN/ATTY. FOR PL.

NO RULING.

4. [25-11339](#)-A-7 **IN RE: LOWELL/STACEY WHITFIELD**
[25-1030](#) [CAE-2](#)

ORDER TO SHOW CAUSE
7-18-2025 [[6](#)]

QUALITY COLLISION NORCAL LLC V. WHITFIELD ET AL

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the missing corporate disclosure statement was filed on July 21, 2025. Doc. #10. Therefore, this order to show cause will be VACATED.

5. [25-11146](#)-A-7 **IN RE: VANESSA REY**
[25-1014](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
4-8-2025 [[1](#)]

REY V. DEPARTMENT OF EDUCATION
VANESSA REY/ATTY. FOR PL.
CLOSED 7/29/2025

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar

NO ORDER REQUIRED.

A stipulated judgment was entered on July 11, 2025. Doc. #22. Accordingly, this status conference is dropped from calendar.