

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 21 and 22, 2022. The court computes that 33 and 34 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due by 7/15/2022.

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

The following filing fees are delinquent and unpaid by Debtor: \$79.00, due on 6/15/22; \$78 due by 7/15/2022; \$78 due by 8/15/2022.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on August 6 and 7, 2022. The court computes that 18, and 19 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79.00, due on 8/1/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$79.00, due on 8/1/22.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 14 and 15, 2022. The court computes that 70 and 71 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 6/8/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 6/8/22.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 7 and 8, 2022. The court computes that 77 and 78 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 5/31/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 5/31/22; \$78 due by 6/30/2022.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 6 and 7, 2022. The court computes that 48 and 49 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 6/30/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 5/31/22; \$78 due by 6/30/2022.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on August 9 and 10, 2022. The court computes that 14 and 15 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 8/1/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 8/1/22.

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 8 and 9, 2022. The court computes that 46 and 47 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$79.00, due on 7/5/22.

The Order to Show Cause is discharged.

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

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

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

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

IT IS ORDERED that the Order to Show Cause is discharged.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court’s resolution of the matter. If the court’s tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on June 14 and 15, 2022. The court computes that 70 and 71 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78.00, due on 6/8/22.

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

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 6/8/22, \$78 due by 7/7/2022, and \$78 due by 8/8/2022.

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

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

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

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

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on July 13 and 14, 2022. The court computes that 41 and 42 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78 due by 7/7/2022.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.00, due on 6/8/22, \$78 due by 7/7/2022, and \$78 due by 8/8/2022.

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is XXXXXXXXXXXXXXXXXX

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

1. the debtor, Laura Ann Salinas (“Debtor”), is delinquent in Plan payments.

DEBTOR’S RESPONSE

Debtor filed a Response on August 8, 2022. Dckt. 81. Debtor states the delinquency will be cured by September 2, 2022.

DISCUSSION

Delinquent

Debtor is \$3,252.00 delinquent in plan payments, which represents over one month of the \$3,223.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

At the hearing, XXXXXXXXXXXXXXXXXX

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

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

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

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

13. [19-25668-E-13](#) **BRIAN MURPHY** **MOTION TO DISMISS CASE**
[DPC-1](#) **Justin Kuney** **7-22-22 [33]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is **XXXXXXXXXXXXXX**

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

1. the debtor, Brian Floyd Murphy (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on August 10, 2022. Dckt. 37. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$2,106.86 delinquent in plan payments, which represents one month of the \$2,106.86 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

At the hearing, **XXXXXXXXXXXX**

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

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

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

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

14. [19-26636-E-13](#) **JENNIFER ROSS** **MOTION TO DISMISS CASE**
[DPC-2](#) **Paul Bains** **7-22-22 [44]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is **XXXXXXXXXXXX**

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

1. the debtor, Jennifer Dawn Ross (“Debtor”), is delinquent in Plan payments.

DEBTOR'S RESPONSE

Debtor filed a Response on August 10, 2022. Dckt. 48. Debtor states the delinquency will be cured prior to the hearing date. Debtor filed as an Exhibit an anticipated payment of \$1,327.00 set to be paid on August 12, 2022. Exhibit, Dckt. 50.

DISCUSSION

Delinquent

Debtor is \$3,213.04 delinquent in plan payments, which represents more than one month of the \$2,594.55 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

At the hearing, **XXXXXXXXXXXX**

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Lucian Anthony Freire (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on August 9, 2022. Dckt. 73. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$7,268.02 delinquent in plan payments, which represents multiple months of the \$2,582.39 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to [pay / file [an amended / a modified] plan] is not evidence that resolves the Motion.

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

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

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

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

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

16. [22-20904-E-13](#) **LORNE/JAMIE WILLIAMS** **MOTION TO DISMISS CASE**
[DPC-2](#) **Randall Ensminger** **6-21-22 [29]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on June 21, 2022. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Lorne H. Williams and Jamie L. Williams (“Debtor”), is delinquent in Plan payments.
2. No Motion to Confirm Plan is pending.
3. The adequate protection payments appear to be an attempt to delay PNC Bank and other creditors.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 10, 2022. Dckt. 42. Debtor states they will file an Amended Plan prior to the hearing date and the reason for the delay is diligent attempts for a loan modification with Creditor PNC bank.

DISCUSSION

Delinquent

Debtor is \$2,720.00 delinquent in plan payments, which represents one month of the \$2,720.00 plan payment. Before the hearing, two more plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

No Motion to Confirm

Debtor has yet to file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore, Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to file an amended plan is not evidence that resolves the Motion.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, COURTNEY ALLYN WILSON (“Debtor”), is delinquent in Plan payments.

DEBTOR’S COUNSEL’S RESPONSE

Debtor’s Counsel filed a Response on August 8, 2022. Dckt. 74. Debtor’s Counsel states Debtor indicated they would cure the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$24,274.06 delinquent in plan payments, which represents multiple months of the \$4,972.94 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor's Counsel, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Michael Roy Mullins (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on August 9, 2022. Dckt. 88. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$5,055.00 delinquent in plan payments, which represents more than one month of the \$3,000.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

19. [17-25441-E-13](#) **HERMAN/BETTY BACA** **MOTION TO DISMISS CASE**
[DPC-3](#) **Mark Briden** **7-27-22 [43]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor’s, Herman Phillip Baca and Betty Jean Baca (“Debtor”), Plan is overextended.

DISCUSSION

Exceeding Sixty Months

Debtor is in material default under the Plan because:

1. August 2022 is month sixty (60) of the Plan
2. Class 1 Creditor, “Shores,” under the Plan was to be paid in full in 48 months. Trustee made payments as required by the Plan. However, Trustee later discovered the mortgage note from Creditor showed an interest rate of 8%. Therefore, Trustee does not believe the mortgage was paid in full.
3. Additionally, Trustee still shows a principal of \$19,988.62 owed to other creditors, while monthly payments are only \$2,400.00.

Section 1.03 of the Plan makes extending beyond sixty (60) months a breach of the Plan in addition to violating the Bankruptcy Code. Failure to provide for those claims puts Debtor in material default of the confirmed Plan. *See* 11 U.S.C. § 1307(c).

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Marlon San Antonio Valenzuela and Michelle Gumobao Valenzuela (“Debtor”), is delinquent in Plan payments.
2. The Debtor has no Plan pending.
3. 521 Documents still have not been received.
4. Debtor’s attorney is suspended.

DISCUSSION

Delinquent

Debtor is \$3,179.00 delinquent in plan payments, which represents less than one month of the \$1,800.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on April 25, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Pay Advices

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(I); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 19, 2022. By the court’s calculation, 36 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~XXXXXXX~~

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

1. the debtor, Roger Kenneth Hoppe and Megan Elizabeth Hoppe (“Debtor”), is delinquent in Plan payments.
2. Trustee cannot comply with paying Class 1 Creditor, Land Home Financial Services Inc., because of Debtor’s delinquency.
3. Debtor’s Plan is overextended as it is now in the 63rd month.

DEBTOR’S RESPONSE

Debtor filed a Response on August 9, 2022. Dckt. 70. Debtor states the delinquency will be cured prior to August 25, 2022, which will complete the Plan.

DISCUSSION

Delinquent

Debtor is \$4,103.63 delinquent in plan payments, which represents over one month of the \$3,845.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

At the hearing, ~~XXXXXXXXXXXX~~

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

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

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

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

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

22. [19-24254-E-13](#) **STEVEN OULICKY** **MOTION TO DISMISS CASE**
[DPC-1](#) **Mikalah Liviakis** **7-22-22 [40]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Steven Keith Oulicky (“Debtor”), is delinquent in Plan payments.

DEBTOR'S RESPONSE

Debtor filed a Response on August 10, 2022. Dckt. 44. Debtor states the delinquency will be cured, however seeks a short continuance to be completely current.

DISCUSSION

Delinquent

Debtor is \$4,747.65 delinquent in plan payments, which represents multiple months of the \$1,648.11 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Michael Joseph Powers (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$2,671.77 delinquent in plan payments, which represents over one month of the \$2,241.13 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

24. [16-26158-E-13](#) **HELEN GUNKEL** **MOTION TO DISMISS CASE**
[DPC-2](#) **Mary Ellen Terranella** **7-22-22 [94]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~XXXXXXXXXXXXXXXXXX~~

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

1. the debtor, Helen Ruth Gunkel (“Debtor”), is 988.00 delinquent in Plan payments.
2. Debtor’s Plan ends October 2022, the 73rd month of the Plan.
3. If the delinquency is cured, all claims will be paid over the 73 months. If not cured, but Debtor pays at least \$300 per month for months August, September, and October, the secured claims will be paid but attorney’s fees will be short.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 10, 2022. Dckt. 108. Debtor states:

- A. \$300.00 was paid on August 1, 2022.
- B. Debtor intends to pay \$300.00 on September 25, 2022 and \$300.00 on October 25, 2022. This will pay all remaining creditors.
- C. Debtor's attorney has agreed to reduce her attorney's fees to the balance of funds on hand after payoff of creditor claims at the completion in October 2022, the final month of the Plan.

Debtor's attorney provides a Declaration indicating approval of the reduced fees. Dckt. 109.

At the hearing, **XXXXXXXXXXXX**

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Shavina Denise Thomas and Donald Wayne Thomas (“Debtor”), is delinquent in Plan payments.

DEBTOR’S COUNSEL’S REPLY

Debtor’s Counsel filed a reply they have not been able to get into contact with the Debtor. Dckt. 167.

DISCUSSION

Delinquent

Debtor is \$1,200.00 delinquent in plan payments, which represents multiple months of the \$300.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Linda Keifer (“Debtor”), failed to appear at the First Meeting of Creditors.
2. No Motion to Confirm Plan is pending.
3. The Plan is not confirmable as it has not been properly filled out.
4. The Chapter 13 documents are inaccurate or incomplete.
5. Tax returns from the most recent pre-petition tax year have not been provided.

DISCUSSION

Failed to Appear at § 341 Meeting of Creditors

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

No Motion to Confirm

Debtor has yet to file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore, Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Plan Not Confirmable

Trustee objects based on the Plan not being properly completed. Although not a reason to dismiss the case, an incomplete Plan does raise question to the good faith, or lack thereof, of the Debtor. *See* 11 U.S.C. § 1325(a)(7).

Undisclosed Bankruptcy Filings Within Prior Eight Years

Trustee reports that Debtor failed to disclose on the petition the following prior bankruptcy cases:

- A. Case No. 21-23191
 - 1. Date Filed: September 9, 2021
 - 2. Chapter: 13
 - 3. Date Dismissed: October 8, 2021
 - 4. Reason for Dismissal: Failure to Timely File Documents.

Debtor was required to report any bankruptcy cases filed within the previous eight years. *See* Voluntary Petition, p.3, Dckt. 1. Debtor's "pattern of filing and dismissal . . . combined with the [Debtor's] failure to disclose all required prior filings, strongly indicates [Debtor] does not intend to use the bankruptcy process the way it was intended. The [Debtor's] creditors have been wrongly hindered or delayed from enforcing their rights." *Landis v. Barttels (In re Barttels)*, No. 10-01145-13, 2011 Bankr. LEXIS 5588, at *8 (Bankr. E.D. Cal. Jan. 28, 2011) (dismissing Debtor's bankruptcy case with prejudice because of undisclosed serial filings and barring Debtor from filing another bankruptcy petition within two years).

Failure to Provide Accurate or Complete Information on Debtor's Schedule

Trustee filed a Motion to Dismiss based on:

- A. Schedules A/B - shows value exceeding the likely values for household goods, electronics, and clothes.
- B. Schedules D, E/F - silent regarding creditors.
- C. Schedule H - indicates no spouse while Schedule J indicates a "Husband" as a dependent and Statement of Financial Affairs shows the Debtor is married.

- D. Schedule J - silent regarding any rent or mortgage payments, but indicates monthly real estate taxes.
- E. Statement of Financial Affairs - indicates no income but Schedule I indicates a monthly income of \$8,857.00.

Without Debtor submitting accurate information, the court and Trustee are unable to determine if the Plan is feasible, viable, or complies with 11 U.S.C. § 1325. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(I); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Review of Court's File

In reviewing the Docket, the court notes that while a Chapter 13 Plan form signed by the Debtor has been filed (Dckt. 13), the form is left blank and no plan terms, or plan payments, are provided.

On Schedule D, Debtor states that she has no creditors with secured claims. Dckt. 11 at 16. On Schedule E/F Debtor states that she has no creditors with any unsecured claims. *Id.* at 18-22.

At the hearing, **XXXXXXX**

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on April 6, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is ~~XXXXXXX~~.

This Motion to Convert the Chapter 13 bankruptcy case of Ronald Gene Custodio and Angela Alvarado Custodio (“Debtor”) has been filed by David P. Cusick (“Movant”), the Chapter 13 Trustee. Movant asserts that the case should be dismissed or converted based on the following grounds:

- A. Debtor has not filed an Amended Plan.
- B. Debtor transferred ownership interest to insider but have not addressed when the transfer occurred, the value of the stock when the transfer was made, and whether any exchange of funds were made.
- C. Debtor has not provided various business documents.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on April 19, 2022. Dckt. 44. Debtor states they have reviewed and signed an Amended Plan which will be set for a confirmation hearing.

APPLICABLE LAW

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. 9th 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 or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may 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 and determining whether cause exists, and if so, whether conversion or dismissal is proper. *Drummond v. Welsh (In re Welsh)*, 711 F.3d 1120, 1123 (9th Cir. 2013) (citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219 (9th Cir. 1999)). 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, 112 n.4 (B.A.P. 9th Cir. 2011) (citing *In re Leavitt*, 171 F.3d at 1224).

DISCUSSION

Debtor’s Amended Plan

Debtor filed an Amended Plan on April 26, 2022. Dckt. 50. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Dckt. 50. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

The Amended Plan provides for a monthly plan payment of \$850. There are no Class 1 Secured Claims. In Class 2, Debtor pays the secured claim of Travis Credit Union (2014 Altima) and “Wells Fargo” (2011 Acura), with 4% interest for which the combined Class 2 payments total \$500 a month. Amd Plan, ¶ 3.08; Dckt. 50.

For Class 4, Debtor will directly make monthly payments to Union Bank of \$1,928.01 and to U.S. Bank of \$259.77, both claims identified as secured by Debtor’s residence.

Debtor also lists priority claims in Class 5 of \$27,915.50. *Id.*, ¶ 3.12.

For general unsecured claims stated to total \$156,975, the stated minimum required dividend is 0.00%. *Id.*, ¶3.14..

Transfer of Ownership to Insider

At the First Meeting of Creditors, Debtor stated they transferred 40% of their ownership interest in both Q Street Dogs and Chitas Taqueria to their sister. Motion, Dckt. 40 at 2:1-3. Accordingly, Debtor now own 10% of each corporation. *Id.* Debtor amended Schedule B to reflect this change; Debtor's interest in both LLC's is listed as 10% with an ownership value of \$500.00 for Q Street Dogs, LLC and an ownership value of \$2,000.00 for Chitas Taqueria, LLC. *Id.* at 2:8-10; *see also* Amended Schedules A/B, Dckt. 20 at 8. However, Trustee notes that Debtor's Statement of Financial Affairs does not indicate any transfers of property (*see* Petition, Dckt. 1 at 45) and Debtor has not yet filed an amended Statement. Dckt. 40 at 2:11-13.

In Debtor's Declaration in support of the Motion to Confirm the Amended Plan, Debtor does not address having transferred 40% of the ownership interests in the 2 restaurant to Debtor's sister, but only comment about "dropping their interest from 50% to 10%," stating:

15. During the pandemic our restaurant first closed in compliance with the COVID-19 lock-down. After this we went to dine out only. The restaurant could not afford to pay everyone, and we did not have any money to contribute to the restaurant to cover the losses and instead dropped our interest from 50% to 10%, but we are able to keep our regular job to support ourselves.

Declaration, ¶ 15; Dckt. 52.

On its face, Debtor does not testify, "we transferred 40% of our ownership interests in the restaurants to our sister." Debtor does not testify, "Our sister paid us \$xxxxx for the 40% ownership interest we transferred to her."

It is not clear as to how "The restaurant could not afford to pay everyone" is a basis for Debtor transferring 40% ownership of the restaurants to the sister.

Turning to Schedule A/B, a review of Debtor's assets includes the following. The two debtors own five (5) vehicles. Schedule A/B, § 3; Dckt. 20. It is unclear why the two debtor need five vehicles.

Debtor lists the Q Street Dogs, Chitas Taqueria, LLC as one in which they have a 10% interest and Chitas Taqueria, LLC as one in which they have a 10% interest. *Id.*, § 19. When the case was filed, Debtor stated under penalty of perjury having a 50% interest in Q Street Dogs, Chitas Tcqeria (SP ???), LLC and an 8.75% interest in Chitas Taqueria, LLC. Dckt. 1 at 16.

In Debtor's Declaration filed in Opposition to the Motion to Convert, the two debtor are mute with respect to the transfer of the 40% interests in the restaurants. They only say that the have "addressed the trustee's concerns."

These two debtors in this bankruptcy case are exercising the powers of and have the duties of a bankruptcy trustee, and are fiduciaries to the Bankruptcy Estate. If avoidable transfers were made, whether preferences or fraudulent conveyance, or invalid post-petition transfers, the fiduciaries have the obligation to avoid such transfers. *See* 11 U.S.C. §§ 544, 547, 548, 549, 550, 551. By their responses, they are choosing to ignore the pre or post-petition transfer of the 40% interest in the restaurants.

And though amending Schedules I and J, Debtor continues to ignore the purported pre or post-petition transfers of the 40% interest in the restaurants, and not amended the Statement of Financial Affairs. On the Statement of Financial Affairs each of the two debtors state under penalty of perjury that:

- (1) during the two year period prior to the filing of the Bankruptcy Case (1) there were no transfers of any property outside of the ordinary course of business (§ 18),
- (2) during the one year period prior to filing bankruptcy no payments or transfers were made to an insider (§ 8), and
- (3) during the one year period prior to filing bankruptcy no payment on a debt was made to an insider,

Dckt. 1 at 42 - 44. These statements under penalty of perjury stand in stark contrast to Debtor stating that 40% of Debtor's interests in the restaurant were given to Debtor's sister.

Failure to File Documents Related to Business

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

- A. Business questionnaires for Q Street Dogs and Chitas Taqueria
- B. 2019 tax returns for Taqueria LLC
- C. 2019 and 2020 tax returns for Q Street Dogs
- D. Six months of profit and loss statements for Q Street Dogs and Chitas Taqueria
- E. Six months of financial statements for following accounts:
 - All statements for Sutton Bank (accounts ending in 1757 and 1281)
 - All statements for Fidelity (account ending in 4375)
 - All statements for crypto accounts for Voyager and Coinbase
- F. Bank statements for following accounts:
 - Bank of the West (accounts ending in 7959 and 8337) from October 19, 2021 through December 17, 2021 (account ending in 8337)
 - All Travis Credit Union from October 1, 2021 through December 17, 2021

- U.S. Bank (account ending in 6702) from October 20, 2021 through December 17, 2021
- RobinHood from November 1, 2021 through December 17, 2021
- Cash App statements for Angela Custodio from November 1, 2021 through December 17, 2021
- Patelco Credit Union accounts (member #7439) from October 1, 2021 through December 17, 2021

G. Any additional documents supporting Debtors' transfer of ownership interest or stock in either Q Street Dogs or Chitas Taqueria.

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

At the hearing, the Trustee reported that they are waiting on the business documents. The Trustee contends that conversion of Debtor's case to a chapter 7 proceeding is in the best interests of creditors and the estate. Dckt. 40 at 3. Considering the admitted to transfer at the First Meeting of Creditors, the two debtors stating under penalty of perjury on the Statement of Financial Affairs that no transfers had occurred, Debtor stating under penalty of perjury on Schedule A/B to having a 50% interest in the restaurant LLC, and the two debtors being unable to provide any clear testimony or documentation of the alleged transfers, cause exists to convert this case to one under Chapter 7 to allow a trustee, as the fiduciary of the Bankruptcy Estate (Debtor having failed to do so) to determine what pre- or post-petition transfers have occurred and avoid them as appropriate, as well as clearly identify all property of the estate to be administered in this case.

At the hearing, the counsel for the Trustee reported that Debtors are current on the prior plan and has not seen an amended plan.

At the hearing, counsel for Debtor directed the court to the docket, stating that an amended plan and motion to confirm have been filed. The court also addressed the issues concerning the Debtor's fiduciary duties to the bankruptcy estate and the stated transfer of a 40% interest in the restaurant business to a sister and the conflicting statements under penalty of perjury.

The Trustee concurred with a continuance to allow Debtor to move forward on prosecuting a plan and fulfilling their fiduciary duties.

FILING OF SECOND AMENDED PLAN

Debtor filed a Second Amended Plan (Dck. 71) and Motion to Confirm on July 20, 2022. The court has reviewed the Motion to Confirm the Amended Plan and the Declaration in support filed by Debtor. Dckt. 67, 69. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating

grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor's personal knowledge. FED. R. EVID. 601, 602.

Under the proposed Amended Chapter 13 Plan Debtor's seek to fund it with \$850 a month, pay their car loan, pay trustee's fees, and pay Debtor counsel fees, and provide for a dividend of not less than 0.00% dividend for creditors holding general unsecured claims. Dckt. 71. Other than the car loan, all other secured claims are to be paid as Class 4 claims.

The Trustee has filed an opposition to the Motion to Confirm. Dckt. 76. The Trustee asserts that the Plan, and the Bankruptcy Case, have not been filed or prosecuted in good faith. The Trustee cites to the gifting away Debtor's interests in the business.

The Trustee notes that while the Debtor show having \$12,780.00 in income, due to supporting two adult children, they exhaust their income and are unable to provide for any payment to creditors holding general unsecured claims. The Trustee asserts that multiple business documents and bank statements have not been provided.

At the hearing, **XXXXXXX**

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Charlie Boggs and Christina Boggs (“Debtor”), is delinquent in Plan payments.

DEBTOR’S RESPONSE

Debtor filed a Response on July 25, 2022. Dckt. 47. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$1,300.00 delinquent in plan payments, which represents multiple months of the \$1,300.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

29. [18-25370-E-13](#) **JESSE ORTIZ** **MOTION TO DISMISS CASE**
[DPC-8](#) **Peter Macaluso** 7-22-22 [[194](#)]

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Jesse Soto Ortiz (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on August 9, 2022. Dckt. 198. Debtor states the delinquency will be cured prior to the hearing date.

DISCUSSION

Delinquent

Debtor is \$16,102.38 delinquent in plan payments, which represents multiple months of the \$8,082.34 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise to pay is not evidence that resolves the Motion.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Laura Hope Hilton (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$1,985.00 delinquent in plan payments, which represents multiple months of the \$305.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

31. [20-23576-E-13](#) **ROMY OSTER** **MOTION TO DISMISS CASE**
[DPC-1](#) **Mark Briden** **7-26-22 [46]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Romy Elizabeth Oster (“Debtor”), is delinquent in Plan payments.

DEBTOR’S OPPOSITION

Debtor filed an Opposition on August 11, 2022. Dckt. 50. Debtor states they are current on payments and requests the Motion to Dismiss be denied to allow a modified plan to be filed. Debtor submitted, as an exhibit, correspondence with Ashley Rober Ballenger, a Paralegal at Tiffany & Bosco, P.A., which indicates that Trustee disbursed \$3,096.08 to Bosco which was Debtor’s default amount. The court notes, however, the email was not properly authenticated. Additionally, this amount is not the full amount of arrears claimed by Trustee.

DISCUSSION

Delinquent

Debtor is \$8,016.83 delinquent in plan payments, which represents multiple months of the \$2,681.61 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Unfortunately for Debtor, a promise they are current and an indication of intent to file a new Plan is not evidence that resolves the Motion.

Debtor also states that a modified plan will be filed at a future date to address curing the arrearage. Upon the court's August 19, 2022, review of the Docket in this case, no proposed modified plan and motion to confirm have been filed.

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

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

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

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

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

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on June 8, 2022. By the court’s calculation, 77 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

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

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

1. the debtor, Patricia Ann Sherron (“Debtor”), is delinquent in Plan payments.
2. The current Plan has not been served on all interested parties and no motion to confirm has been filed.
3. Debtor has not provided sixty (60) days of payment advices nor tax returns.

DISCUSSION

Delinquent

Trustee claims Debtor is 2,164.15 in default, as Debtor has not made a Plan payment yet. However, Debtor’s Plan states a \$2,135.00 Plan payment. The court presumes the \$2,164.15 amount is a typographical error, the correct amount being \$2,135.00. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Never Noticed Initial Plan

Debtor did not properly serve the Plan on all interested parties and has yet to file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore,

Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(I); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Pay Advices

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Review of Court's Files

The Court's review of its files shows multiple prior bankruptcy case filings by Debtor. The filings in the last three years consist of:

- A. Chapter 13 Case 21-23156, *In Pro Se*
 - 1. Filed.....September 3, 2021
 - 2. Dismissed.....January 27, 2022

- B. Chapter 13 Case 20-23362, *In Pro Se*
 - 1. Filed.....July 6, 2020
 - 2. Dismissed.....April 22, 2021

- C. Chapter 13 Case 19-24924, Represented by Counsel
 - 1. Filed.....August 5, 2019
 - 2. Dismissed.....March 19, 2020

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

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

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

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

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

33. [19-20196-E-13](#) **MARTIN/ARLENE ZERMENO** **MOTION TO DISMISS CASE**
[DPC-1](#) **Dale Orthner** **7-22-22 [36]**

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

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Martin Christopher Zermeno and Arlene Frances Zermeno (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$2,302.98 delinquent in plan payments, which represents less than one month of the \$2,436.68 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

FINAL RULINGS

34. [22-20702-E-13](#) MATEO GALVAN MOTION TO DISMISS CASE
[DPC-2](#) Harry Roth 6-21-22 [\[37\]](#)

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on June 21, 2022. By the court’s calculation, 64 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Mateo Angulo Galvan (“Debtor”), is delinquent in Plan payments.
2. Debtor has failed to appear at First Meeting of Creditors.
3. Debtor has no Plan pending.
4. Debtor failed to provide tax returns.
5. Debtor failed to provide business documents.

TRUSTEE'S STATUS REPORT

Trustee filed a status report on August 8, 2022, Dckt. 43, indicating everything remain outstanding except Debtor appeared at the continued Meeting of Creditors held on August 4, 2022.

DISCUSSION

Delinquent

Debtor is \$9,425.76 delinquent in plan payments, which represents multiple months of the \$3,156.44 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

No Pending Plan / Delay of Confirmation

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on June 12, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(I); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to File Documents Related to Business

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

- A. Questionnaire,
- B. Six months of profit and loss statements, and
- C. Proof of license and insurance or written statement that no such documentation exists.

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

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

2. Debtor has failed to provide verification of her identity and proof of her social security number at the Meeting of Creditors, which is continued to June 9, 2022.
3. Debtor has failed to provide the Trustee a copy of their Federal Income Tax Return with attachments for the most recent pre-petition tax year.

DISCUSSION

Delinquent

Debtor is \$850.00 delinquent in plan payments, which represents multiple months of the \$425.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Provide Social Security Number

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

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(I); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The Trustee reported at the hearing that a TFS payment is pending and an amended Plan is set for hearing.

Plan and Motion to Confirm Filed

Debtor has filed an Amended Plan (Dckt. 35) and Motion to Confirm (Dckt. 30) to address the defaults. From the court's preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 32) states personal knowledge testimony in support of the Motion to Confirm.

Given Debtor's active prosecution of confirmation of a Plan, the Trustee requested that the hearing be continued in light of Debtor being in default with one payment, to allow the Debtor to cure (which is stated to be done in June 2022). When such cure is made, the Trustee will then dismiss this Motion.

Trustee's *Ex Parte* Motion to Dismiss

Trustee, having filed an *Ex Parte* Motion to Dismiss the pending Motion on June 21, 2022, Dckt. 49; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; the *Ex Parte* Motion is granted, the

Chapter 13 Trustee's Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

The Motion to Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick ("Trustee") having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Dckt. 49, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Ruben Mario Uranga (“Debtor”), is delinquent in Plan payments.
2. Debtor has no Plan pending.

DISCUSSION

Delinquent

Debtor is \$2,900.00 delinquent in plan payments, which represents multiple months of the \$725.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on April 14, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

37.	22-20709-E-13	TIFFANY BAILEY Michael Hays	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 7-28-22 [37]
	37 thru 40		

Final Ruling: No appearance at the August 24, 2022 Hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 29 and 30, 2022. The court computes that 25 and 26 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 7/25/22.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78 due by 5/24/2022; \$78 due by 6/23/2022; and \$78.00, due on 7/25/22.

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.

40. [22-20709-E-13](#) **TIFFANY BAILEY** **MOTION TO DISMISS CASE**
[DPC-2](#) **Michael Hays** **7-27-22 [38]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, TIFFANY ANN BAILEY (“Debtor”), is delinquent in Plan payments.
2. Debtor has failed to appear at the First Meeting of Creditors.
3. Debtor has no plan pending.

4. Debtor failed to provide business documents.

DISCUSSION

Delinquent

Debtor is \$1,840.00 delinquent in plan payments, which represents multiple months of the \$460.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failed to Appear at § 341 Meeting of Creditors

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

No Pending Plan / Delay of Confirmation

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on June 12, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to File Documents Related to Business

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

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

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

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

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

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

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

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

41. [19-20510-E-13](#) **ROBERTA WHITE** **MOTION TO DISMISS CASE**
[DPC-4](#) **Gabriel Liberman** **7-22-22 [54]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Roberta Kay White (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$3,360.00 delinquent in plan payments, which represents multiple months of the \$1,120.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

42.	<u>22-21211-E-13</u>	YVETTE SALDIVAR Thomas Amberg	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 7-18-22 [19]
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Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 19 and 20, 2022. The court computes that 35 and 36 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78.00, due on 7/12/22.

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

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

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

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

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

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

43. [20-24414-E-13](#) **CELESTE RASMUSSEN** **MOTION TO DISMISS CASE**
[DPC-1](#) **Mikalah Liviakis** **7-26-22 [22]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Celeste Ingrid Rasmussen (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$8,614.81 delinquent in plan payments, which represents multiple months of the \$2,930.60 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on June 16, 2022. By the court’s calculation, 69 days’ notice was provided. 28 days’ notice is required.

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

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

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

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

1. the debtor, Kyle Andrew Farris and Graciela Jaramillo-Farris (“Debtor”), is delinquent in Plan payments.
2. Court may consider conversion.

DEBTOR’S COUNSEL’S RESPONSE

Debtor’s Counsel filed a Response on August 10, 2022 stating Debtor has not presented an argument to contest Trustee’s Motion. Dckt. 67. No opposition to the Motion is stated.

DISCUSSION

Failed to Commence Plan Payments

Debtor did not commence making plan payments as required under the modified plan, confirmed on April 25, 2022, and has not made any payment since December 29, 2021. Debtor is \$19,080.00 delinquent in plan payments, which represents multiple months of the \$4,770.00 plan

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

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

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

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

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

46. [21-20216-E-13](#) **MARIVIC/ELBERT GARCIA** **MOTION TO DISMISS CASE**
[DPC-3](#) **Thomas Moore** **7-26-22 [87]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on July 26, 2022. By the court's calculation, 29 days' notice was provided. 28 days' notice is required.

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

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

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

1. the debtor, Marivic G. Garcia and Elbert E. Garcia, Jr. (“Debtor”), is delinquent in Plan payments.
2. Debtor has not modified the Plan when the Plan calls for payments to creditor which may have reconveyed the property back to Debtor.

DISCUSSION

Delinquent

Debtor is \$4,392.78 delinquent in plan payments, which represents less than one month of the \$5,457.89 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Failure to Modify Plan

Debtor has not filed a Modified Plan or a Motion to Confirm a Modified Plan to exclude Chase Mortgage from the Plan. Trustee indicates Creditor is refusing payments from Trustee and therefore, Trustee believes there was a reconveyance from Chase Mortgage to Debtor. Trustee holds over \$15,000 for the Chase Mortgage claim.

The Trustee has failed to provide evidence, other than a Declaration from their employee, Stephanie Lewandowski, who states Chase Bank has indicated there is no outstanding balance on the account, that the claim has been reconveyed. The court would need further evidence of this reconveyance to decide whether there is no outstanding claim, whether with Chase Bank or a successor creditor. However, given the delinquency, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 8 and 9, 2022. The court computes that 46 and 47 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 7/5/22.

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

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

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Matthew David King and Michele Elizabeth Prather King (“Debtor”), is delinquent in Plan payments.

Delinquent

Debtor is \$2,698.00 delinquent in plan payments, which represents multiple months of the \$1,165.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

49. [19-26927-E-13](#) **SUSAN ENGLISH** **MOTION TO DISMISS CASE**
[DPC-1](#) **Mikalah Liviakis** **7-27-22 [20]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Susan Elizabeth English (“Debtor”), is delinquent in Plan payments.

Delinquent

Debtor is \$9,900.00 delinquent in plan payments, which represents multiple months of the \$2,550.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

50. [20-21032-E-13](#) **MARJORIE ALCANTARA** **MOTION TO DISMISS CASE**
[DPC-3](#) **Richard Jare** **5-11-22 [58]**

Final Ruling: No appearance at the August 24, 2022 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on May 11, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

The Motion to Dismiss is denied without prejudice.

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

1. the debtor, Marjorie Alcantara (“Debtor”), is delinquent in Plan payments.

CONFIRMATION OF A MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on May 26, 2022. Dckt. 62, 64. The court confirmed the Modified Plan on August 5, 2022. Order, Dckt. 97.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on February 14, 2022. By the court’s calculation, 23 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The Motion to Dismiss is denied without prejudice.

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

1. Both debtors, Jolie Ann Barkalow and Michael A. Barkalow (“Debtors”) are deceased. Debtors Attorney filed a Notice of Death (Dckt. 23) and Certificates of Death (Dckt. 24).
2. Debtors are delinquent in plan payments.

Attorney’s Notice of Death

Debtors’ Attorney filed a Notice of Death of Debtor for each Debtor. Debtors’ Attorney indicates:

no one from the family has responded to counsel’s efforts to communicate with the decedents’ family in order to determine whether or not they intend to pursue a motion for substitution as the successor or representative to the deceased.

Dckts. 23, 30.

Review of File for This Bankruptcy Case

The proposed Amended Chapter 13 Plan (Dckt. 20) in this case provided for a Class 1 cure of the claim secured by Debtor's Residence. Plan ¶ 3.07; Dckt. 20. Several other secured claims were provided for, priority taxes, and for general unsecured claims a 0.00% dividend.

On Schedule J, Debtor lists having three minor children. Dckt. 1 at 35.

On Schedule A/B Debtor lists the residence property as having a value of \$576,900. *Id.* at 12. Reference is also made to a term life policy. *Id.* at 16. Those appear to be the significant assets of value.

On Schedule D Debtor lists there being two secured claims secured by the Residence, which are stated to total (\$300,000). *Id.* at 22. That is consistent with the secured claims filed by the two creditors. POC 3-1 and POC 8-1.

The two death certificates filed indicate an extraordinarily sad and traumatic cause of the almost simultaneous death of the two debtors and the three minor children losing their parents. An internet search (which is not reference as "evidence") discloses that the extended family is acting to address the needs of the minor children.

From what has been presented, it is not clear whether probate or other proceedings concerning the late debtors or for the care of the children (and their interests in the assets of their late parents) have been commenced. It does appear that a Dana Percival, a family member is organizing fund raising events.

On its face, it there would appear to be around \$205,000 equity in the Residence after payment of the secured claims. This is an asset that could go to the late Debtor's children. Zillow.com (against not referenced as evidence) gives a value of \$604,400 for the Residence, and states that there is an auction of the property pending. It states that the auction is set for April 19, 2022.

In reviewing the file, the court has not granted relief from the stay for such an auction to be conducted. A real property foreclosure search indicates that the Notice of Foreclosure was recorded on September 22, 2021, which was nine days before the September 30, 2022 filing of the Bankruptcy Case.

In light of the substantial assets in this case, before it will be dismissed the court will need a personal representative of the successor to Debtor or one appointed for the late debtors' children to properly adjudicate this Motion.

Through the internet the Trustee and US Trustee can identify family members. They can do a search of the County court files to identify if there are probate, conservatorship, or other proceedings. They can contact Child Protective Services and other County agencies which exist to protect the welfare of minors to see if someone from that office would be appointed to protect a several hundred thousand dollar assets for the late debtors' children. It may be that the sale of the Residence would be conducted in this bankruptcy case, after which the case could be dismissed.

DISCUSSION

Delinquent

Debtor is \$9,300.00 delinquent in plan payments, which represents multiple months of the \$3,100.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Death of Debtors

Under 11 U.S.C. § 1016, a Chapter 13 case may be dismissed upon death or incompetency of a debtor. This is largely due to Chapter 13 plans being dependent on the debtor's future earnings. 9 Collier on Bankruptcy P 1016.04 (16th 2021). However, if further administration is possible and in the best interest of the parties, the case may proceed and concluded in the same manner, so far as possible, as though death or incompetency had not occurred, with the court appointing a personal representative successor to the late debtor. 11 U.S.C. § 1016.

However, this is a bankruptcy estate with substantial assets and no identifiable person to whom they will be abandoned upon dismissal. The court continues the hearing pending the appointment of a successor representative for the late debtors and has a representative for the three minor children so that their rights and interests are properly addressed.

April 13, 2022 Response

On April 13, 2022, the late-Debtor's Attorney filed a status report stating Sean Percival, brother of Jolie Barkalow, intends to retain Attorney's firm to have him appointed as the successor in interest to the late Debtors. Additionally, Attorney indicates that it will be likely six months before Mr. Percival has authority from the probate court to transfer interest in any real property. If Mr. Percival is appointed as the successor, he will file a modified plan paying all creditors through the sale of the late Debtor's residence.

Attorney requests this hearing be continued sixty (60) days.

April 19, 2021 Hearing

At the hearing, the Trustee reported that Debtor has not confirmed a plan, and that a 341 Meeting has not been able to be conducted.

Counsel for the Debtor reported that Sean Percival, a brother of one of the deceased debtors, who is willing to be the successor party in interest. Then a plan will be filed that provides for the sale of the home. He is hiring a probate attorney to address the family law issues.

The motion for a successor representative is to be filed within two weeks.

Substitution of Parties

June 7, 2022 Hearing

On June 7, 2022, the court and all parties agreed with the substitution of Sean Percival as Debtor for the deceased Debtors.

First Amended Chapter 13 Plan

On June 6, 2022, substituted Debtor filed a First Amended Chapter 13 Plan. Dckt. 50. The Plan states it will be funded through a one-time lump sum payment from proceeds of the sale of real property located at 4421 Arbroath Way, Antelope, California 95843. Debtor states the sale will take place after court approval through separate motion.

Confirmation of Plan

The Chapter 13 Plan was confirmed, order to be issued by the court, at the August 16, 2022 hearing. Debtor actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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

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

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

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

52. [17-28248-E-13](#) **SHAUN TAYLOR** **MOTION TO DISMISS CASE**
[DPC-4](#) **Thomas Amberg** **7-22-22 [72]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

The Motion to Dismiss is denied without prejudice.

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

1. the debtor, Shaun Amanda Taylor (“Debtor”), is delinquent in Plan payments.

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on August 8, 2022. Dckt. 80. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckt. 76, 79. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor’s personal knowledge. FED. R. EVID. 601, 602.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Rhonda DeJesus (“Debtor”), is delinquent in Plan payments.

Delinquent

Debtor is \$15,237.44 delinquent in plan payments, which represents multiple months of the \$2,206.18 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 14 and 15, 2022. The court computes that 70 and 71 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 6/8/22.

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

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

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

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

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

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

Final Ruling: No appearance at the August 24 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Flora Elaine Broughton (“Debtor”), is delinquent in Plan payments and has no plan pending.

DISCUSSION

Delinquent

Debtor is \$24,656.00 delinquent in plan payments, which represents multiple months of the \$8,220.00 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

No Pending Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court’s denial of confirmation to Debtor’s prior plan on June 14, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

57. [20-23866-E-13](#) ANNE PRICE MOTION TO DISMISS CASE
[DPC-1](#) Mary Anderson 7-22-22 [77]

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion. The defaults of the non-responding parties in interest are entered.

The Motion to Dismiss is denied without prejudice.

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

1. the debtor, Anne Marie Price (“Debtor”), is delinquent in Plan payments.

DISCUSSION

FILING OF MODIFIED PLAN

Debtor filed a Modified Plan and Motion to Confirm on August 15, 2022. Dckt. 86. The court has reviewed the Motion to Confirm the Modified Plan and the Declaration in support filed by Debtor. Dckt.

83, 86. The Motion appears to comply with Federal Rule of Bankruptcy Procedure 9013 (stating grounds with particularity), and the Declaration appears to provide testimony as to facts to support confirmation based upon Debtor's personal knowledge. FED. R. EVID. 601, 602.

Debtor appearing to be actively prosecuting this case, the Motion to Dismiss is denied without prejudice.

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

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

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

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

58.	<u>22-20066-E-13</u>	BONNIE PYEATT Michael Hays	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 5-17-22 [49]
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Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on May 18 and 19, 2022. The court computes that 98 and 99 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 5/12/22.

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

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

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

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

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

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

59. [22-20667-E-13](#) **CHRISTIE LEWIS** **MOTION TO DISMISS CASE**
[DPC-2](#) **Mark Shmorgon** **7-27-22 [25]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 27, 2022. By the court’s calculation, 28 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Christie Lewis (“Debtor”), is delinquent in Plan payments and has no Plan pending.

DISCUSSION

Delinquent

Debtor is \$3,600.00 delinquent in plan payments, which represents multiple months of the \$900.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

No Pending Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on June 13, 2022. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

60. [20-21776-E-13](#) **JANICE AVERY** **MOTION TO DISMISS CASE**
[DPC-3](#) **Lars Fuller** **7-26-22 [35]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

The Chapter 13 Trustee, David Cusick ("Trustee") having filed an Ex Parte Motion to Dismiss the pending Motion on August 17, 2022, Dckt. 41; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the debtor's, Janice Johnson Avery ("Debtor"), Response on August 9, 2022, Dckt. 39, ; the Ex Parte Motion is granted, the Chapter 13 Trustee's Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

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

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

61. [19-26080-E-13](#) **HARNIDER SANDHU AND** **MOTION TO DISMISS CASE**
[DPC-2](#) **RAJWINDER KAUR** **7-22-22 [48]**
 Mo Mokarram

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Harnider Singh Sandhu and Rajwinder Kaur (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$2,200.00 delinquent in plan payments, which represents multiple months of the \$1,100.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

62. [20-22182-E-13](#) **RODOLFO/BESSIE DELA TORRE** **MOTION TO DISMISS CASE**
[DPC-2](#) **Thomas Amberg** **7-26-22 [37]**

WITHDRAWN BY M.P.

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 22, 2022. By the court’s calculation, 33 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Thuan Tan Tran (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$940.00 delinquent in plan payments, which represents multiple months of the \$420.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

64. [20-20390-E-13](#) **LANE/DENISE MILDE** **MOTION TO DISMISS CASE**
[DPC-4](#) **David Ritzinger** **7-26-22 [100]**

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Lane Christian Milde and Denise Rene Milde (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$13,260.43 delinquent in plan payments, which represents multiple months of the \$6,683.10 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

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

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

65.	22-20594-E-13	DAVID/KATHLEEN HALFORD Matthew DeCaminada	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 7-18-22 [68]
	65 thru 67		

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on July 18 and 19, 2022. The court computes that 36 and 37 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the required fees in this case: \$78.00, due on 7/12/22.

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on June 18 and 19, 2022. The court computes that 66 and 67 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$78.00, due on 6/13/22.

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

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

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

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on August 17, 2022, Dckt. 88; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the Response filed by Kc Ann Blumgold (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

The Motion to Dismiss the Chapter 13 Case filed by The Chapter 13 Trustee, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Dckt. 88, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on July 26, 2022. By the court’s calculation, 29 days’ notice was provided. 28 days’ notice is required.

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

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

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

1. the debtor, Jorge Luis Vera (“Debtor”), is delinquent in Plan payments.

DISCUSSION

Delinquent

Debtor is \$977.00 delinquent in plan payments, which represents multiple months of the \$490.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

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

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

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

Final Ruling: No appearance at the August 24, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, U.S. Bank, National Association ("Creditor"), and Chapter 13 Trustee as stated on the Certificate of Service on July 21 and 22, 2022. The court computes that 33 and 34 days' notice has been provided.

The court issued an Order to Show Cause based on Creditor's failure to pay the required fees in this case: \$26.00 fee for filing a transfer of claim due on 7/9/2022.

The Order to Show Cause is discharged.

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

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

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

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

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered.