

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 25, 2020 at 2:00 p.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

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

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The Chapter 13 Trustee, Russell Greer having filed a withdrawal (Dckt. 77) which the court interprets to be a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), the Motion to Dismiss the Bankruptcy Case was dismissed and the matter is removed from the calendar.

Final Ruling: No appearance at the August 25, 2020 hearing is required.

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

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

The Motion to Dismiss is denied without prejudice.

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

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

Debtor filed an Amended Plan and Motion To Confirm on July 17, 2020. Dckts. 45, 48.

Based on the record, the court finds the debtor is diligently prosecuting this case. Therefore, the Motion is denied with prejudice. The court shall issue a minute order substantially in the following form holding that:

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied without prejudice.

Tentative Ruling:

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

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

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

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

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

At the prior hearing, the court granted a continuance to allow additional time to file an amended plan. Dckt. 64. Despite the additional time, nothing has been filed.

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

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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

4. [20-21336](#)-C-13 CHI MA
Yasha Rahimzadeh

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

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The court issued this Order To Show Cause because debtor had not paid a filing fee installment payment due on June 6, 2020. Dckt. 56.

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

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

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

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

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

5. [20-21336](#)-C-13 CHI MA
Yasha Rahimzadeh

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-9-20 [[70](#)]

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The court issued this Order To Show Cause because debtor had not paid a filing fee installment payment due on July 6, 2020. Dckt. 70.

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

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

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

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

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

Tentative Ruling:

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

The Motion to Dismiss is denied without prejudice.

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

At the prior hearing, the court granted a short continuance to allow debtor and debtor's counsel to file an amended plan to address this Motion.

Thereafter, an Amended Plan and Motion To Confirm were filed. Dckts. 76, 79.

Based on the record, the court finds the debtor is diligently prosecuting this case. Therefore, the Motion is denied with prejudice. The court shall issue a minute order substantially in the following form holding that:

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied without prejudice.

7. [20-22852](#)-C-13 DEREK WOLF
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-8-20 [[20](#)]

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The court issued this Order To Show Cause because debtor had not paid the final filing fee installment payment on the due date of July 6, 2020. Dckt. 20.

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

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

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

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

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

8. [20-22357](#)-C-13 TRACY WOOD
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-8-20 [[28](#)]

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The court issued this Order To Show Cause because debtor had not paid the third filing fee installment payment on the due date of July 6, 2020. Dckt. 28.

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

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

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

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

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

No Tentative Ruling:

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

The Motion to Dismiss is XXXXXX

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

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

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

Discussion

At the prior hearing the court granted a continuance to allow the Adversary Proceeding, No. 20-02013 to be resolved and an amended plan filed. The adversary proceeding has been closed, but no plan has been filed.

At the hearing, XXXXXXXXXXXXXXXX

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

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is XXXXXXXXXX

Tentative Ruling:

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

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

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

The court at the prior hearing granted a short continuance to allow debtors to address the grounds for dismissal.

Thereafter, on July 20, 2020, the debtors filed an Amended Plan and Motion To Confirm. Dckts. 79, 82.

Based on the record, the court finds the debtor is diligently prosecuting this case. Therefore, the Motion is denied with prejudice. The court shall issue a minute order substantially in the following form holding that:

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

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer ("Trustee"), pursuant to 11 U.S.C. § 1307(c)(1), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied without prejudice.

11. [20-21676](#)-C-13 ALLEN GAMBLE
Peter Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-23-20 [[52](#)]

DEBTOR DISMISSED: 7/30/20

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The above captioned case was dismissed on July 30, 2020. Dckt. 55.
Therefore, the Order To Show Cause is discharged as moot.

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

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

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

IT IS ORDERED that the Order to Show Cause is
dismissed as moot.

12. [20-21980](#)-C-13 SAVINA HALL
[RDG](#)-2 Mohammad Mokarram

MOTION TO DISMISS CASE
8-6-20 [[23](#)]

Final Ruling: No appearance at the August 25, 2020 hearing is required.

The Chapter 13 Trustee, Russell Greer having filed a withdrawal (Dckt. 33) which the court interprets to be a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), the Motion to Dismiss the Bankruptcy Case was dismissed and the matter is removed from the calendar.