

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

August 26, 2015 at 10:00 a.m.

1.	15-24206 -B-13	LEON DOBBINS	ORDER TO SHOW CAUSE - FAILURE
		Richard L. Jare	TO PAY FEES
			7-30-15 [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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law.

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

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on July 27, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on July 31, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

August 26, 2015 at 10:00 a.m.

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2. [15-25417](#)-B-13 GERALD FILICE
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-11-15 [[21](#)]

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

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

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on August 6, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$80.00 on August 11, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

3. [15-25223](#)-B-13 FARAHNAZ MAKHMALBAF ORDER TO SHOW CAUSE - FAILURE
Thru #4 Pro Se TO PAY FEES
8-4-15 [[27](#)]

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

The court's tentative decision is to sustain the Order to Show Cause. However, the case is not dismissed for reasons stated in Item #4.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on July 30, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

4. [15-25223](#)-B-13 FARAHNAZ MAKHMALBAF NOTICE OF INTENT TO DISMISS
Pro Se CASE
6-30-15 [[3](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Notice of Incomplete Filing and Notice of Intent to Dismiss Case If Documents Are Not Timely Filed was served by the Clerk of the Court on the Debtor, Trustee, and other such parties in interest on June 30, 2015.

The court's decision is to not dismiss the case.

A Notice of Intent to Dismiss Case was issued due to Debtor's failure to file the Schedules, Statement of Financial Affairs, and other required documents.

In response, the United States Trustee ("UST") requests that the court refrain from dismissing this case in order to give the UST additional time to facilitate investigation of abusive, sequential bankruptcy filings. The UST asserts that the Debtor and her husband have filed six bankruptcy cases in an effort to prevent foreclosure on their Van Winkle Court residence without the intention of complying with debtor's duties or to complete the cases. Additionally, the UST asserts that an "Andrew Zegura" had a part in filing at least some of the bankruptcy petitions. To further investigate into these matters, the UST requests that the case not be dismissed.

The court finds adequate grounds to hold open this bankruptcy case. As such, the case is not dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

This case was filed on April 8, 2015. No plan was filed until May 6, 2015, and there was no motion to confirm filed with that plan. The § 341 meeting of creditors was held and concluded on May 28, 2015. An amended plan and motion to confirm it were filed on July 10, 2015. The hearing on the motion to confirm the amended plan is set for September 16, 2015.

Section § 1324(b) of the Bankruptcy Code states as follows:

The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.

11 U.S.C. § 1324(b).

Section 1324(b) requires an actual confirmation hearing to be "held" 45 days after the § 341 meeting. *See In re Hegeduis*, 525 B.R. 74, 82 (Bankr. N.D. Ind. 2015); *In re Tiliakos*, 2013 WL 3943502 at *3 (Bankr. M.D. Fla. 2013).

Based on the May 28, 2015, creditor's meeting date in this case, the 45-day confirmation period of § 1324(b) expired on Monday, July 13, 2015. Inasmuch as the Debtor's initial plan filed on May 6, 2015, was not set for hearing, no confirmation hearing was held on or before July 13, 2015. The first date on which a confirmation hearing will be held in this case is September 16, 2015, on the Debtor's amended plan. That date is 111 days after the date of the § 341 meeting. Therefore, because the Debtor has failed to comply with § 1324(b), and because it is now impossible to hold a confirmation hearing within 45 days of the § 341 meeting of creditors as the Code requires, the court concludes that cause exists to dismiss this case. *See In re Butcher*, 459 B.R. 115, 119 (Bankr. D. Colo. 2011) ("11 U.S.C. § 1324(b) requires chapter 13 confirmation hearings to be held between 20 and 45 days after the § 341 meeting date. It gives the Court discretion to hold the confirmation hearing sooner but not later."); *In re Donnell*, 2012 WL 8255546 at *2 (Bankr. E.D. Cal. 2012). The motion to dismiss is granted and this case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

6. [15-23126](#)-B-13 TAMARA MURRAY
Mikalalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-21-15 [[32](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on July 21, 2015.

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

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on July 16, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on July 28, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's tentative decision is to dismiss the case.

First, the Debtors did not appear at the duly noticed first meeting of creditors set for July 23, 2015, as required pursuant to 11 U.S.C. § 343.

Second, the Debtors have not filed a certificate of credit counseling, which is distinct from a certificate of financial management. The Debtors have failed to comply with 11 U.S.C. § 521(b)(1) and is not eligible for relief from under the 11 U.S.C. § 109(h).

As such, cause exists to dismiss this case. The motion granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

8. [15-25346](#)-B-13 MICHAEL MILLER
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-6-15 [[18](#)]

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

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

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on August 3, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$79.00 on August 6, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

First, Debtors have not prosecuted their case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1). Debtors filed a Second Modified Plan on June 15, 2015, which failed to address several of the issues that were previously raised in the Trustee's opposition to the Debtors' First Motion to Modify Plan. The Debtors' Second Modified Plan was set for hearing on August 12, 2015, and was denied without prejudice and the modified plan was not confirmed.

Second, the Debtors are delinquent to the Trustee in the amount of \$2,485.00 through July 2015 under the terms of the Second Modified Plan. The Debtors have not made any payments into their plan within the past 2 months and Debtors' Receipt History shows a pattern of sporadic payments over the course of the past year. As such, the Debtors are causing unreasonable delay that is prejudicial to creditors and cause exists to dismiss the case pursuant to 11 U.S.C. § 1307(c)(1) and (4).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

10. [15-21659](#)-B-13 CHARLES HUGHES
JPJ-2 C. Anthony Hughes

MOTION TO DISMISS CASE
7-9-15 [[56](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

While the Debtor has filed a second amended plan on August 7, 2015, and therefore has taken action to confirm a plan in this case, the Debtor is nonetheless delinquent to the Trustee in the amount of \$2,400.00, which represents approximately 1 plan payment. By the time this motion is heard, an additional plan payment in the amount of \$2,500.00 will also be due.

As such, cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

11. [15-22361](#)-B-13 LISA THOMPSON
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-28-15 [[58](#)]

DEBTOR DISMISSED 8/6/2015

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on July 28, 2015.

The Order to Show Cause is discharged as moot.

The court having dismissed this bankruptcy case by prior order filed on August 6, 2015 (Dkt. 62), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall enter an appropriate civil minute order consistent with this ruling.

12. [15-23262](#)-B-13 GEORGE ALLEN
Mohammad M. Mokarram

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-27-15 [[34](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on July 27, 2015.

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

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on July 21, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on July 31, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

13. [15-24470](#)-B-13 DONNA VANDERHORST
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-6-15 [[55](#)]

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

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

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on August 3, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on August 10, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

14. [14-30071](#)-B-13 ALICE RANSOM MOTION TO DISMISS CASE
JPJ-1 Mikalah R. Liviakis 7-2-15 [[50](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

First, the Debtor has not taken further action to confirm a plan. Two objections to confirmation filed by the Bank of New York Mellon (Dkts. 29 and 34) were heard and sustained on December 16, 2014. The Debtor has not prosecuted this case causing an unreasonable delay that is prejudicial to creditors pursuant to 11 U.S.C. § 1307(c)(1).

Second, the Debtor is delinquent to the Trustee in the amount of \$1,340.52, which represents approximately 0.45 plan payment. By the time this motion is heard, an additional plan payment in the amount of \$2,999.00 will also be due.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

Tentative Ruling: The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's tentative decision is to not dismiss the case.

Although the Debtor has not appeared at the duly noticed first meeting of creditors set for July 23, 2015, is delinquent to the Trustee in the amount of \$100.00, has failed to provide the Trustee with a copy of his tax return for the most recent tax year a return was filed, and failed to provide the Trustee with copies of his payment advices received within the 60-day period prior to the filing of the petition, the court will not dismiss the case based on its Civil Minute Order (Dkt. 33), which conditionally denied the Trustee's motion to dismiss and provided the Debtor with 75 days to confirm a plan.

As such, cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

16. [15-25373](#)-B-13 LISA ILAGA
Mikalah R. Liviakis

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-10-15 [[30](#)]

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

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on August 5, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

17. [15-24674](#)-B-13 JOHN/TRACI BISAGNO
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-14-15 [[20](#)]

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

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtors' failure to pay \$79.00 due on July 9, 2015. The court's docket reflects that the default has not been cured.

The court shall enter an appropriate civil minute order consistent with this ruling.

18. [15-23677](#)-B-13 FRANK SCRUGGS
Candace Y. Brooks

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-8-15 [[28](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on July 8, 2015.

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

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on July 6, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on July 9, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

19. [15-24877](#)-B-13 LARIESHA GLOVER
Thru #20 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-22-15 [[16](#)]

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

The court's tentative decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due on July 17, 2015. The court's docket reflects that the default has not been cured, the Debtor having paid only \$76.00 on July 27, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

20. [15-24877](#)-B-13 LARIESHA GLOVER
JPJ-1 Pro Se

MOTION TO DISMISS CASE
7-30-15 [[18](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's tentative decision is to dismiss the case.

First, the Debtor did not appear at the duly noticed first meeting of creditors set for July 23, 2015, as required pursuant to 11 U.S.C. § 343.

Second, the Debtor is delinquent to the Trustee in the amount of \$350.00, which represents the first plan payment that was due July 25, 2015. By the time this motion will be heard, an additional plan payment in the amount of \$350.00 will also be due.

Third, the Debtor has not filed a certificate of credit counseling. The Debtor has not complied with 11 U.S.C. § 521(b)(1).

Fourth, the Debtor has not provided the Trustee with a copy of his tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fifth, the Debtor has not provided the Trustee with copies of his payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Sixth, the 45-day deadline set by 11 U.S.C. § 1324 will expire on September 8, 2015. To date, the Debtor has not filed, set for hearing, and served a motion to confirm the plan as required pursuant to Local Bankr. R. 3015-1(c)(3) and 3015-1(d)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

21. [11-27178](#)-B-13 KAREN PRESCOTT
Richard Kwun

ORDER TO SHOW CAUSE - FAILURE
TO TENDER FEE FOR FILING
TRANSFER OF CLAIM
7-21-15 [[92](#)]

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on the Debtor, Trustee, and other such other parties in interest as stated on the Certificate of Service on July 21, 2015.

The court's decision is to discharge the Order to Show Cause, and the transfer of claim shall not be stricken nor sanctions imposed on PennyMac Holdings, LLC.

The Order to Show Cause was issued due to PennyMac Holdings, LLC failure to pay the \$25.00 fee for filing a transfer of claim from Citibank N.A. to PennyMac Holdings, LLC. The court's docket reflects that the default has been cured, the \$25.00 having been paid on August 10, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Trustee's Motion to Dismiss Case has been set for hearing on the 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-BuTrk (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 court's decision is to dismiss the case.

The Debtor has not provided the Trustee with requested documents, specifically a copy of the Debtor's income tax return for the year 2014, W-2 Wage and Tax Statement for the year 2014, and copies of payment advices for January, February, and March 2015 pursuant to 11 U.S.C. § 521(f) and Local Bankr. R. 3015-1(b)(5). The Debtor has not cooperated with the Trustee as required under 11 U.S.C. § 521(a)(3).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

23. [15-24284](#)-B-13 SHARLYN SWENDSEN
Thru #24 Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-3-15 [[41](#)]

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

The court's tentative decision is to discharge the Order to Show Cause. However, the case shall be dismissed and not proceed in this court for reasons stated in Item #24.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due on July 27, 2015. The court's docket reflects that the default has been cured, the Debtor having paid \$77.00 on August 7, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

24. [15-24284](#)-B-13 SHARLYN SWENDSEN
JPJ-2 Pro Se

MOTION TO DISMISS CASE
7-30-15 [[36](#)]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Trustee's Motion to Dismiss Case is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further.

The court's tentative decision is to dismiss the case.

First, the Debtor's certificate of credit counseling was not received during the 180-day period preceding the date of the filing of the petition and is not eligible for relief under 11 U.S.C. § 190(h).

Second, the Debtor did not appear at the first meeting of creditors set for July 9, 2015, as required pursuant to 11 U.S.C. § 343.

Third, the Debtor did not provide the Trustee with a copy of her tax return for the most recent tax year a return was filed. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Fourth, the Debtor is delinquent to the Trustee in the amount of \$80.00, which represents approximately 1 plan payment. By the time this motion is heard, an additional plan payment in the amount of \$80.00 will also be due.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

The court shall enter an appropriate civil minute order consistent with this ruling.

Final Ruling: No appearance at the August 26, 2015 hearing is required.

The Motion to Confirm Amended Plan has been set for hearing on the 42-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to grant the motion and confirm the plan.

Although no opposition has been filed by the Trustee or creditors, the plan's feasibility depends on the Debtors successfully prosecuting a motion to value the collateral of Wells Fargo Bank, N.A. This motion was filed, served, and continued to August 17, 2015 at 1:30 p.m. to be heard before the Hon. Michael S. McManus. Absent a successful motion, the Debtors cannot establish that the plan will pay secured claims in full as required by 11 U.S.C. § 1325(a)(5)(B) or that the plan is feasible as required by 11 U.S.C. § 1325(a)(6). Local Bankruptcy Rule 3015-1(j) provides: "If a proposed plan will reduce or eliminate a secured claim based on the value of its collateral or the avoidability of a lien pursuant to 11 U.S.C. § 522(f), the debtor must file, serve, and set for hearing a valuation motion and/or a lien avoidance motion. The hearing must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny confirmation of the plan."

A Civil Minute Order having been entered on August 24, 2015, and granting the motion to value collateral, the court finds that the amended plan filed on June 9, 2015, complies with 11 U.S.C. §§ 1322 and 1325(a). The plan is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.