

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS

DAY: TUESDAY

DATE: August 27, 2019

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

August 27, 2019 at 1:00 p.m.

1.	19-21114 -B-13	LYNDA STOVALL	MOTION TO DISMISS CASE
	JPJ -1	Peter G. Macaluso	7-23-19 [57]

No Ruling

2. [19-23714](#)-B-13 STEVEN FONTAINE OBJECTION TO CONFIRMATION OF
 [DPC](#)-1 Matthew J. DeCaminada PLAN BY DAVID P. CUSICK
 [Thru #3](#) 7-23-19 [[35](#)]

Tentative Ruling

The case having been dismissed at Item #3, the objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

3. [19-23714](#)-B-13 STEVEN FONTAINE MOTION TO DISMISS CASE
 [DPC](#)-2 Matthew J. DeCaminada 8-6-19 [[41](#)]

Tentative Ruling

Because less than 28 days' notice of the hearing was given, the motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, parties in interest were not required to file a written response or opposition. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The court's decision is to dismiss the case.

First, the Debtor did not appear at the meeting of creditors set for July 18, 2019, as required pursuant to 11 U.S.C. § 343.

Second, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$7,395.00 and an additional payment of \$7,395.00 will be due before the hearing on this matter. The Debtor does not appear to be able to make plan payments proposed and has not carried the burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

Third, the Debtor has not provided business documents including two years of tax returns, six months of profit and loss statements, six months of bank statements, proof of license and insurance, or written statements that no such documentation exists. 11 U.S.C. § 521(e)(2)(A), Fed. R. Bankr. P. 4002(b)(3).

Fourth, the Debtor has not provided the Trustee with copies of 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).

Fifth, the Debtor has not provided the Trustee with a copy of his federal income 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).

Sixth, the underlying cause of Debtor's repeated bankruptcy filings (see case nos. 19-22373, 19-22920) to protect or save his home no longer seems to exist. Based on the Sacramento County Clerk Recorders website under official records and the Debtor's name, the Debtor's home appears to have been sold and Balboa, LLC has taken ownership under a trustee's deed.

Seventh, the Debtor's unsecured debt, according to claims on file, is \$1,124,403.51. This is based on the claims filed by the Internal Revenue Service, which claims a general unsecured debt of \$15,371.19, and the Franchise Tax Board, which claims a general unsecured debt of \$419,275.00. The Debtor is therefore not eligible for

Chapter 13 relief.

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

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

4. [19-23824](#)-B-13 ROLINA BROWN ORDER TO SHOW CAUSE - FAILURE
 Thru #5 Peter G. Macaluso TO PAY FEES
 7-22-19 [[45](#)]

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 July 17, 2019. The court's docket reflects that the default has not been cured.

The order to show cause is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes and the case is DISMISSED.

The court will enter a minute order.

5. [19-23824](#)-B-13 ROLINA BROWN OBJECTION TO CONFIRMATION OF
 DPC-1 Peter G. Macaluso PLAN BY DAVID P. CUSICK
 7-30-19 [[47](#)]

Tentative Ruling

The case having been dismissed at Item #4, the objection to confirmation is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

6. [19-24330](#)-B-13 STEPHEN LUNDY
Francisco J. Aldana

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-24-19 [[13](#)]

DEBTOR DISMISSED: 07/29/2019

Final Ruling

The case having been dismissed on July 29, 2019, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

7. [19-23839](#)-B-13 MARCUS BILLINGTON
 Robert McCann

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-23-19 [[30](#)]

DEBTOR DISMISSED: 07/30/2019

Final Ruling

The case having been dismissed on July 30, 2019, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

8. [19-21644](#)-B-13 FRANCES ENOCHS-JORGENSEN
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-22-19 [[32](#)]

DEBTOR DISMISSED: 07/23/2019

Final Ruling

The case having been dismissed on July 23, 2019, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

9. [19-23457](#)-B-7 RAYMOND SAHADEO MOTION TO DISMISS CASE
[JPJ](#)-3 W. Steven Shumway 7-15-19 [[43](#)]

CASE CONVERTED 8/5/2019

Final Ruling

The case having been converted on August 5, 2019, the motion to dismiss case is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

10. [19-23859](#)-B-13 DANA/ANTHONY CRANDELL
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-23-19 [[18](#)]

Final Ruling

The court having entered an order on August 22, 2019, granting the Debtors' motion for voluntary dismissal of case, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

11. [19-22061](#)-B-13 JULIEANNE/RANDY PRICE
Michael O'Dowd Hays

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-6-19 [[50](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due August 1, 2019. The court's docket reflects that the default was cured on August 22, 2019. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the ruling appended to the minutes and the case SHALL REMAIN PENDING.

The court will enter a minute order.

12. [19-23761](#)-B-13 JILL WILSON
[JPJ](#)-2 Peter L. Nisson

MOTION TO DISMISS CASE
7-15-19 [[33](#)]

No Ruling

13. [18-26564](#)-B-13 DESMAL MATTHEWS
[JPJ](#)-5 Jeremy Fancher

MOTION TO DISMISS CASE
7-23-19 [[102](#)]

No Ruling

14. [19-21864](#)-B-13 IMELDA DEL ROSARIO
Dale A. Orthner

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-30-19 [[76](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$77.00 due July 25, 2019. The court's docket reflects that the default was cured on August 1, 2019. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the ruling appended to the minutes and the case SHALL REMAIN PENDING.

The court will enter a minute order.

15. [19-21165](#)-B-13 FLOYD CHRISTENSEN
[JPJ](#)-1 Peter G. Macaluso

MOTION TO DISMISS CASE
6-27-19 [[28](#)]

No Ruling

16. [19-22973](#)-B-13 JOSEPHINE WILLIAMS
Kristy Hernandez

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-15-19 [[25](#)]

DEBTOR DISMISSED: 08/02/2019

Final Ruling

The case having been dismissed on August 2, 2019, the order to show cause is discharged as moot.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

17. [19-23876](#)-B-13 TRACILEA YOUNG MOTION TO DISMISS CASE
[JPJ](#)-2 Peter L. Cianchetta 8-7-19 [[27](#)]

No Ruling

18. [19-20077](#)-B-13 JOHN JAMES
[PGM](#)-2 Peter G. Macaluso

CONTINUED MOTION TO MODIFY PLAN
5-20-19 [[43](#)]

No Ruling

19. [19-23988](#)-B-13 MICHAEL MULLINS
Dale A. Orthner

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-30-19 [[20](#)]

Tentative Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on July 25, 2019. While the delinquent installment was paid on August 1, 2019, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the ruling appended to the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will enter a minute order.

20. [19-23889](#)-B-13 BRAEDEN/BETHANY BUTLER
Michael Benavides

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
7-24-19 [[15](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtors' failure to pay \$79.00 due July 19, 2019. The court's docket reflects that the default was cured on August 1, 2019. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the ruling appended to the minutes and the case SHALL REMAIN PENDING.

The court will enter a minute order.

21. [19-23812](#)-B-13 JINA HALE
[JHW](#)-1 Mikalah R. Liviakis

OBJECTION TO CONFIRMATION OF
PLAN BY TD AUTO FINANCE LLC
7-12-19 [[19](#)]

Tentative Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The matter will be determined at the scheduled hearing.

This matter was continued from August 20, 2019, to provide the Chapter 13 Trustee an opportunity to review the stipulation between TD Auto Finance LLC ("Creditor") and Jina Hale ("Debtor"). Creditor and Debtor represented at the hearing in open court that they agreed to an interest rate of 6.00% for Creditor's claim. The parties have uploaded an exhibit and provided a copy to the Trustee.

The matter will be determined at the scheduled hearing,

22. [19-23837](#)-B-13 KIMBERLY BORDEN
[JPJ](#)-1 Eric John Schwab

OBJECTION TO CONFIRMATION OF
PLAN BY JAN P. JOHNSON AND/OR
MOTION TO DISMISS CASE
7-31-19 [[17](#)]

Tentative Ruling

The objection and motion were originally filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The matter will be determined at the scheduled hearing.

This matter was continued from August 20, 2019, to allow the bar date to file proofs of claim to pass. If there are no significant claims filed before the bar date, the Means Test issue is moot. The Debtor is current on plan payments pursuant to 11 U.S.C. § 1325(a)(6).

The matter will be determined at the scheduled hearing.