

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

**August 28, 2018 at 1:00 p.m.**

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1. [18-23608](#)-B-13 RAJESH KAPOOR MOTION TO DISMISS CASE  
Thru #3 Richard L. Jare 8-8-18 [[84](#)]

**Tentative Ruling:** The court issues no tentative ruling.

The Request for Voluntary Dismissal of Case was filed by debtor Rajesh Kapoor individually. See Item #2 which addresses the issue of Debtor's motion to dismiss.

The matter will be determined at the scheduled hearing.

2. [18-23608](#)-B-13 RAJESH KAPOOR ORDER TO SHOW CAUSE  
Richard L. Jare 8-13-18 [[87](#)]

**Tentative Ruling:** Rajesh Kapoor ("Debtor") was ordered to show cause in writing by August 21, 2018, why this case shouldn't be dismissed with prejudice and the Debtor barred from refile for two years. Responses were filed by the Chapter 13 Trustee, creditor Rashmi Sharma ("Ms. Sharma"), and Debtor.

The matter will be determined at the scheduled hearing.

**Response by Trustee and Creditor**

Both the Trustee and Ms. Sharma request that the court convert this case to a Chapter 7 proceeding. According to Ms. Sharma, conversion would allow a Chapter 7 trustee to generate dividends for the benefit of creditors from the sale of Debtor's primary residence and potential sale of real property located in India. Ms. Sharma also contends that conversion is appropriate since the Debtor has failed to confirm a plan and has not made any plan payments in this bankruptcy and the prior five Chapter 13 cases.

In addition, both the Trustee and Ms. Sharma are amenable to dismissal of the case, that 11 U.S.C. § 349(a) be applied, and that a two-year bar from refile be applied from the entry of the dismissal order. However, Ms. Sharma is concerned that such a dismissal would not prevent the Debtor from engaging in conduct that will hinder and delay Ms. Sharma's ability to collect on her judgment against the Debtor.

In the event that the case is dismissed, Ms. Sharma requests that the court make a bad faith determination. Ms. Sharma believes that this finding is supported by the totality of circumstances in this case and the Debtor's serial filing history. If a bad faith determination is made, Ms. Sharma requests an award of attorney's fees and is willing to provide additional briefing on this issue.

**Response by Debtor**

Debtor does not explain why this case should not be dismissed with prejudice and a two-year bar imposed. Instead, Debtor states that he has provided his counsel with additional documentation (specifically pay stubs, uncertified copies of dispositions

**August 28, 2018 at 1:00 p.m.**

The matter will be determined at the scheduled hearing.

- Tentative Ruling:** The court issues no tentative ruling.

The matter will be determined at the scheduled hearing.

4.     [18-21413](#)-B-13   MOMOLILAAUFOGAA/LIU                   ORDER TO SHOW CAUSE - FAILURE  
                          LOLANI                               TO PAY FEES  
                          Pauldeep Bains                   7-16-18 [[38](#)]

**Final Ruling:** No appearance at the August 28, 2018, hearing is required.

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 \$77.00 due July 10, 2018. The court's docket reflects that the default was cured on July 19, 2018. The payment constituted the final installment.

The court will enter an appropriate minute order.

**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 decision is to dismiss the case.

First, the Debtor has not filed a certificate of completion from an approved nonprofit budget and credit counseling agency. The Debtor has not complied with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C. § 190(h).

Second, the Debtor is delinquent to the Chapter 13 Trustee in the amount of \$419.95, which represents approximately 1 plan payment. By the time this matter is heard, an additional payment in the amount of \$419.95 will also be due. The Debtor has failed to make any plan payments since this case was filed on June 29, 2018. Cause exists to dismiss this case pursuant to 11 U.S.C. §§ 1307(c)(1) and (c)(4).

Third, the plan filed July 13, 2018, does not utilize the mandatory form plan required pursuant to Local Bankr. R. 3015-1(a) and General Order 17-03, Official Local Form EDC 3-080, the standard form Chapter 13 Plan effective December 1, 2017.

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

The court will enter an appropriate minute order.

6. [13-22830](#)-B-13 MARIO THOMPSON AND MOTION TO DISMISS CASE  
[JPJ](#)-2 MICHELLE HAMMACK-BURNS 7-16-18 [[49](#)]  
Douglas B. Jacobs

**Tentative Ruling:** The Trustee's Motion to Dismiss Case 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)(B) 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 decision is to not dismiss the case provided that the Debtor's have cured their last plan payment, a delinquency of \$576.64.

Provided that the Debtors have cured their delinquency, cause does not exist to dismiss this case. The motion will be denied without prejudice and the case will not be dismissed.

The court will enter an appropriate minute order.

7. [16-21260](#)-B-13 JOSE/RAQUEL VELASQUEZ MOTION TO DISMISS CASE  
[JPJ](#)-2 Thomas O. Gillis 7-25-18 [[24](#)]

**Tentative Ruling:** The Trustee's Motion to Dismiss Case 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)(B) 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 decision is to not dismiss the case.

The Trustee moves to dismiss the case on grounds that the Debtors have failed to provide copies of documents requested by the Trustee: income tax return for the tax year 2017, Debtors' W-2 wage and tax statement for the year 2017, copies of bank account statements for July through March 2018, copies of payment advices for January through March 2018, and information regarding any inheritances, life insurance benefits, lawsuits, potential claim against third parties, judgments in civil actions, lottery and other gambling winnings received since the filing of the petition pursuant to 11 U.S.C. § 521(f), Local Bankr. R. 3015-1(b)(5) and the duties imposed by Section 5.02 of the confirmed plan.

Debtors filed a response stating they would provide the Trustee with the missing documents by August 17, 2018.

Provided that the Trustee has received copies of the requested documents, cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed.

The court will enter an appropriate minute order.

8. [18-23782](#)-B-13 DENNIS/MARY BOSTON  
[JPJ](#)-2 Seth L. Hanson

MOTION TO DISMISS DENNIS WAYNE  
BOSTON  
7-27-18 [[36](#)]

**Tentative Ruling:** The Trustee's Motion to Dismiss Case as to Dennis Wayne Boston 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)(B) 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 decision is to not dismiss case as to Dennis Wayne Boston.

Chapter 13 Trustee moves to dismiss the case as to Dennis Wayne Boston ("Debtor") on the basis that the sum of his non-contingent, liquidated unsecured debts is over \$394,725.00 and he is therefore not eligible for relief under 11 U.S.C. § 109(e).

However, the court determined on August 14, 2018, that based on the debts listed in Schedule E/F as "Debtor 1 only" and "Debtor 1 and 2 only," the amount of Debtor's debt totals \$356,855.82 and he is therefore within the statutory limit for Chapter 13 eligibility. See *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001).

Cause does not exist to dismiss this case. The motion is denied without prejudice and the case is not dismissed as to Dennis Wayne Boston.

The court will enter an appropriate minute order.

9. [18-23983](#)-B-13 SHARON LOCKETT  
Richard L. Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-31-18 [[25](#)]

**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 26, 2018. While the delinquent installment was paid on August 2, 2018, 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 court will enter an appropriate minute order.



10. [18-23887](#)-B-13 TIMOTHY NEHER  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
7-25-18 [[42](#)]

**Final Ruling:** No appearance at the August 28, 2018, hearing is required.

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 \$79.00 due July 20, 2018. The court's docket reflects that the default was cured on August 7, 2018. The Debtor's payment of \$310.00 constituted the final installment.

The court will enter an appropriate minute order.

11. [18-23289](#)-B-13 MICHAEL FONTES  
[JPJ](#)-1 Bruce Charles Dwiggins

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY JAN P.  
JOHNSON AND/OR MOTION TO  
DISMISS CASE  
7-18-18 [[30](#)]

**Tentative Ruling:** The Trustee's Objection to Confirmation of the Chapter 13 Plan and Conditional Motion to Dismiss Case was 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). The Debtor, creditors, the Trustee, the U.S. Trustee, and any other 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 7, 2018, to provide Debtor additional time to provide the Chapter 13 Trustee with the Class 1 Authorization to Release Information to Trustee Regarding Secured Claims Being Paid by the Trustee.

The issue of the misclassification of the State Board of Equalization can be resolved in the order confirming based on Debtor's conversation with the Chapter 13 Trustee at the meeting of creditors.

If the Class 1 Authorization to Release Information is provided to the Trustee, the plan filed June 7, 2018, will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a) and the objection will be overruled.

The court will enter an appropriate minute order.

**Tentative Ruling:** The Motion to Modify Chapter 13 Plan After Confirmation was originally set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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)(B) 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 matter will be determined at the scheduled hearing.

This matter was continued from August 21, 2018, at the request of the Chapter 13 Trustee to verify that the Debtor has timely made her plan payment due August 25, 2018.

Provided that the Debtor is current on plan payments, the modified plan will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a) and will be confirmed.

The court will enter an appropriate minute order.