

**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 COVER SHEET

DAY: TUESDAY

DATE: August 29, 2023

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 29, 2023 at 1:00 p.m.

- | | | | |
|----|--------------------------------|-------------------|--------------------------------|
| 1. | 22-23005 -B-13 | TERRY FASY | MOTION TO DISMISS CASE |
| | RDG -1 | Peter G. Macaluso | 8-14-23 [74] |

Final Ruling

The matter is continued to **September 5, 2023, at 1:00 p.m.** at the request of Debtor's counsel, who has submitted a notice of unavailability and request for continuance.

The court will issue an order.

August 29, 2023 at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 5, 2023, at 1:00 p.m.**

A hearing on objections to confirmation was heard on June 13, 2023, and the court sustained the objections and denied confirmation of the plan. The Debtor has failed to file, set, and serve an amended plan. This is an unreasonable delay by the Debtor that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 1, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 5, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 5, at 1:00 p.m.

3. [23-21211](#)-B-13 RODOLFO BENAVIDES ORDER TO SHOW CAUSE - FAILURE
Thru #4 Pro Se TO PAY FEES
7-18-23 [[30](#)]

CASE DISMISSED: 7/21/23

Final Ruling

The case having previously been dismissed, the Order to Show Cause is discharged as moot with no sanctions ordered.

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

The court will issue an order.

4. [23-21211](#)-B-13 RODOLFO BENAVIDES MOTION TO DISMISS CASE
[RDG](#)-2 Pro Se 8-14-23 [[39](#)]

CASE DISMISSED: 7/21/23

Final Ruling

The case having previously been dismissed, the motion to dismiss case is denied as moot.

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

The court will issue an order.

5. [22-22612](#)-B-13 LAWRENCE/JENNY BOLDON MOTION TO DISMISS CASE
[RDG-2](#) Brian S. Haddix 8-14-23 [[96](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 5, 2023, at 1:00 p.m.**

The Debtors filed three plans, all of which have been denied confirmation. The Debtors have failed to file, set, and serve an amended plan. This is an unreasonable delay by the Debtors that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 1, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 5, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 5, at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 5, 2023, at 1:00 p.m.**

First, the Debtors are delinquent in the sum of \$2,400.00. The last plan payment was received on June 29, 2023. 11 U.S.C. § 1307(c)(4).

Second, a hearing on an objection to confirmation was heard on May 23, 2023, and the court denied confirmation of the plan. The Debtors have failed to file, set, and serve an amended plan. This is an unreasonable delay by the Debtors that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 1, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 5, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 5, at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 5, 2023, at 1:00 p.m.**

First, the Debtor is delinquent in the sum of \$100,436.25. The last plan payment was received on August 10, 2023. 11 U.S.C. § 1307(c)(4).

Second, the Debtor filed two plans and both were denied confirmation. The Debtor has failed to file, set, and serve an amended plan. This is an unreasonable delay by the Debtor that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 1, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 5, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 5, at 1:00 p.m.

8. [23-21460](#)-B-13 TIMOTHY DOOLEY
Eric L. Seyvertsen

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-7-23 [[21](#)]

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 \$78.00 due August 2, 2023. The court's docket reflects that the default was cured on August 10, 2023. The payment constituted the final installment.

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

The court will issue an order.

9. [23-20365](#)-B-13 TERRY CASE
[RDG](#)-2 Taras Kurta

MOTION TO DISMISS CASE
8-14-23 [[53](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to deny the motion to dismiss case.

Debtor has filed a second amended plan with a confirmation hearing set for October 3, 2023. This resolves the issues raised by the Chapter 13 Trustee as grounds to dismiss the case.

The motion is denied without prejudice.

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to **conditionally grant the motion to dismiss case and continue the matter to September 5, 2023, at 1:00 p.m.**

First, the Debtors are delinquent in the sum of \$5,680.00. The last plan payment was received on April 3, 2023. 11 U.S.C. § 1307(c)(4).

Second, although a stipulation regarding plan treatment of secured creditor's claim was entered into between Debtors and MEB Loan Trust II, U.S. Bank Trust National Association, and was approved by the court on April 28, 2023, the Debtors have not provided an appropriate order confirming plan.

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

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, September 1, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on September 5, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on September 5, at 1:00 p.m.

11. [23-21855](#)-B-13 CLIFFORD/VICTORIA HEITMAN CONTINUED OBJECTION TO
[RDG-1](#) Kathleen H. Crist CONFIRMATION OF PLAN BY RUSSELL
D. GREER
7-31-23 [[17](#)]

Final 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). A written reply has been filed to the objection.

All objections have been resolved and the court has determined that oral argument is not necessary. See Local Bankr. R. 1001-1(f), 9014-1(h). This matter will be decided on the papers. No appearance at the hearing is necessary.

The court's decision is to overrule the objection and confirm the plan.

First, Debtors and their counsel appeared at the continued meeting of creditors held August 23, 2023. The meeting was concluded as to the Debtors.

Second, Debtors state that their income is a draw from a corporation and that individual and corporate 2022 tax returns were provided to the Chapter 13 Trustee.

Third, Debtors state that they will include language in the order confirming that general unsecured creditors will receive no less than 100% plus interest at the Federal Judgment Rate of 5.18%

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed June 14, 2023, is confirmed.

The objection is ORDERED OVERRULED for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED and counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and, if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.