

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: September 28, 2021

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
Modesto, California

September 28, 2021 at 1:00 p.m.

1. [16-90657](#)-B-13 TODD BRANDT MOTION TO DISMISS CASE
[RDG](#)-2 Brian S. Haddix 9-14-21 [[96](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). 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 October 5, 2021, at 1:00 p.m.

First, payments not current under the plan confirmed on July 2, 2019. As of September 14, 2021, plan payments under the plan are delinquent in the sum of \$13,744.00. The last payment was received on June 29, 2020. 11 U.S.C. § 1307(c)(6).

Second, the Debtor has failed to confirm a plan. Multiple plans have been filed: July 22, 2020 (notice of withdrawal filed August 9, 2020); August 9, 2020 (denied confirmation on October 20, 2020); January 5, 2021 (denied confirmation April 20, 2021). The failure to confirm a plan is an unreasonable delay that is prejudicial to creditors. 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, October 1, 2021, 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 October 5, 2021, 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 October 5, 2021, at 1:00 p.m.

The court will issue an order.

September 28, 2021 at 1:00 p.m.

2. [21-90164](#)-B-13 EVARISTO AVILA
[RDG-2](#) Pro Se

MOTION TO DISMISS CASE
9-9-21 [[37](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). 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.

The pro se Debtor has failed to appear at the continued meetings of creditors held August 4, 2021, and September 1, 2021. However, the Debtor appeared at the continued meeting of creditors held September 15, 2021, and the meeting was continued to October 13, 2021.

Since the Debtor is pro se and made the effort to appear at the most recent meeting of creditors, the court will not dismiss this case. However, the court is cognizant that there is no confirmed plan in this case. The objection to confirmation of plan by the Chapter 13 Trustee, RDG-1, was continued to October 19, 2021, at 1:00 p.m. to be heard after the continued meeting of creditors held October 13, 2021.

If the Debtor does not appear at the October 13, 2021, meeting of creditors, the case will be dismissed on the Trustee's ex parte motion. The objection to confirmation, RDG-1, will be overruled as moot and the October 19, 2021, hearing will be vacated.

Cause does not exist to dismiss this case. The motion denied without prejudice.

The court will issue an order.

3. [21-90264](#)-B-13 VICTOR PEDROZA
Matthew J. DeCaminada

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-7-21 [[19](#)]

Final 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 \$77.00 installment when due on September 1, 2021. While the delinquent installment was paid on September 7, 2021, 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 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 issue an order.

4. [21-90377](#)-B-13 FOZIA KHAN
Pro Se

NOTICE OF INTENT TO DISMISS
CASE IF DOCUMENTS ARE NOT
TIMELY FILED
8-18-21 [[14](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

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

A Notice of Incomplete Filing or Filing of Outdated Forms and Notice of Intent to Dismiss Case if Documents are Not Timely Filed was issued on August 18, 2021. Although the pro se Debtor did file some schedules on September 2, 2021, not all schedules have been filed and some were left blank. Additionally, no chapter 13 plan has been filed or set for a confirmation hearing.

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 minutes.

The court will issue an order.

5. [19-90307](#)-B-13 JAY WHITAKER CONTINUED MOTION TO INCUR DEBT
 [AHN](#)-4 Anh H. Nguyen 8-23-21 [[96](#)]

Final Ruling

This matter was continued from September 21, 2021, to allow any party in interest to file a response by 5:00 p.m. on Friday, September 24, 2021. No response was filed. Therefore, the court's conditional ruling granting the motion to incur debt at dkt. 104 shall become the court's final decision. The continued hearing on September 28, 2021, at 1:00 p.m. is vacated.

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

The court will issue an order.

6. [14-90265](#)-B-13 LEONARD/TRACY WEBSTER CONTINUED MOTION TO AVOID LIEN
[BSH](#)-8 Brian S. Haddix OF VALLEY FIRST CREDIT UNION
9-7-21 [[111](#)]

Final Ruling

This matter was continued from September 21, 2021, to allow any party in interest to file a response by 5:00 p.m. on Friday, September 24, 2021. No response was filed. Therefore, the court's conditional ruling granting the motion to incur debt at dkt. 118 shall become the court's final decision. The continued hearing on September 28, 2021, at 1:00 p.m. is vacated.

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

The court will issue an order.