



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

October 4, 2023 at 2:00 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

Video web address:

<https://www.zoomgov.com/j/1600733948?pwd=QVRiTW5qdUJVR1k1TXl3NVB2VU90Zz09>

Meeting ID: 160 073 3948

Password: 862819

Zoom.Gov Telephone: (669) 254-5252 (Toll Free)

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medicaid credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

October 4, 2023 at 2:00 p.m.

1.	23-21723 -C-13	BARBARA MYERS Peter Macaluso	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 8-21-23 [55]
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Final Ruling: No appearance at the October 4, 2023 hearing is required.

The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on August 21, 2023. Dkt. 55.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

October 4, 2023 at 2:00 p.m.

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2. [23-20729](#)-C-13 KENNETH AKINS AND BONNIE MOTION TO DISMISS CASE
[LGT](#)-1 MORRIS 9-18-23 [[30](#)]
Eric Schwab

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 16 days' notice was provided. Dkt. 33.

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed a motion to confirm the debtors' plan filed on April 5, 2023.

A review of the docket confirms the proposed Chapter 13 plan was filed on April 5, 2023, and no motion has been filed for confirmation hearing. Dkt. 20.

The Motion also argues debtor is \$6,468.00 delinquent in plan payments, which is supported by declaration. Dkt. 32.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Lilian G. Tsang having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal and not conversion, is in the best interest of creditors and the Estate.

3. [23-21837](#)-C-13 HEATHER VAN METER
Thomas Amberg

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-11-23 [[37](#)]

Tentative Ruling:

The court issued this Order to Show Cause because debtor had not paid the filing fee installment payment on the due date of September 5, 2023. Dkt. 37.

A review of the docket shows the payment has still not been made.

Therefore, the Order to Show Cause is sustained, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is sustained, and the case is dismissed.

4. [23-21837](#)-C-13 HEATHER VAN METER
Thomas Amberg

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-10-23 [[22](#)]

Tentative Ruling:

The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on August 7, 2023. Dkt. 22.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 39.

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the Chapter 13 plan on July 11, 2023.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 29,30.

The debtor filed an opposition representing that a new plan would be filed with a motion to confirm to be heard on November 14, 2023.

Failure to confirm a plan and maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Lilian G. Tsang having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is granted, and the case is dismissed, the court having found that dismissal and not conversion, is in the best interest of creditors and the Estate.

6. [23-22685](#)-C-13 KEVIN SMITH
Michael Totaro

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-29-23 [[23](#)]

Final Ruling: No appearance at the October 4, 2023 hearing is required.

The court issued this Order to Show Cause because debtor had not paid the fee due for the filing of the amended verification and master address list on August 12, 2023. Dkt. 23.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

7. [23-22192](#)-C-13 AMAL TORRES AND EVERLY ORDER TO SHOW CAUSE - FAILURE
 BAN-TORRES TO PAY FEES
 Mikalah Liviakis 8-9-23 [[14](#)]

Final Ruling: No appearance at the October 4, 2023 hearing is required.

The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on August 4, 2023. Dkt. 14.

A review of the docket shows that the installment has now been paid. Therefore, the Order to Show Cause is discharged.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.

8. [23-21494](#)-C-7 MICHAEL RUNFOLA MOTION TO DISMISS CASE
[LGT](#)-1 Mikalah Liviakis 9-13-23 [[29](#)]

Final Ruling: No appearance at the October 4, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 32.

The Motion to Dismiss is denied without prejudice as moot.

The Chapter 13 Trustee filed this Motion to Dismiss arguing that cause for dismissal exists because the debtor has not filed an amended plan since the court denied confirmation of the plan on July 11.

A review of the docket confirms the plan was denied confirmation, and no plan is set for confirmation hearing. Dkt. 21.

A review of the docket shows the debtor filed a notice of conversion, and the case was converted to Chapter 7 on September 19, 2023 Dkts. 33 & 36.

Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. Fed. R. Bankr. P. 1017(f)(3); In re Bullock, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); In re McFadden, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor's case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on September 19, 2023. McFadden, 37 B.R. at 521.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Lilian G. Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Dismiss is denied without prejudice as moot.