



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

October 9, 2024 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 or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

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. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, 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 medical 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 9, 2024 at 2:00 p.m.

1. [24-20502](#)-C-13 JOHN BARNWELL MOTION TO DISMISS CASE
[LGT](#)-2 Pro Se 8-19-24 [[33](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 51 days' notice was provided. Dkt. 36.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

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 April 16, 2024.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 24 & 25.

The Motion also argues has failed to cooperate with the Trustee by not providing requested documents. Dkt. 21.

Failure to confirm a plan and cooperate with the Trustee 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.

October 9, 2024 at 2:00 p.m.

Page 1 of 11

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.

2. [24-22229](#)-C-13 BENJAMEN VERMA
Peter Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-26-24 [[46](#)]

Final Ruling: No appearance at the October 9, 2024 hearing is required.

The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on August 20, 2024. Dkt. 46.

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.

3. [24-21032](#)-C-13 DOUGLAS LEARY AND VAN MOTION TO DISMISS CASE
[LGT-2](#) NGUYEN 8-19-24 [[25](#)]
Mikalah Liviakis

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 51 days' notice was provided. Dkt. 28.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

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 May 28, 2024.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 23 & 24.

The Motion also argues has failed to cooperate with the Trustee by not providing requested documents. Dkt. 25.

Failure to confirm a plan and cooperate with the Trustee 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.

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 13 days' notice was provided. Dkt. 39.

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. 25.

A review of the docket shows the debtor filed a notice of conversion, and the case was converted to Chapter 7 on September 26, 2024 Dkts. 40 & 46.

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 26, 2024. 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, Lillian 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.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 56 days' notice was provided. Dkt. 32.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

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 August 6, 2024.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 27 & 28.

The Motion also argues debtor failed to appear at the Meeting of Creditors. Dkt. 31.

Failure to confirm a plan constitutes evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Failure to appear at the Meeting of Creditors constitutes evidence of unreasonable delay that is prejudicial to creditors, which is cause for dismissal of the case. 11 U.S.C. § 1307(c)(1).

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. [24-21965](#)-C-13 GREGOIRE TONOUKOUIN
Thomas Amberg

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-12-24 [[32](#)]

Final Ruling: No appearance at the October 9, 2024 hearing is required.

The court issued this Order to Show Cause because debtor had not paid the fee installment payment due on August 6, 2024. Dkt. 32.

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.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 44 days' notice was provided. Dkt. 26.

The Motion to Dismiss is XXXXXXXXXXXX

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor has not filed a Credit Counseling Certificate.

The debtor filed an opposition stating that he did complete the Credit Counseling Class. The Certificate was filed as an Exhibit showing that the counseling session was completed on June 18, 2024.

The Bankruptcy Code requires that the credit counseling course be taken within a period of 180 days ending on the date of the filing of the petition for relief. 11 U.S.C. § 109(h) (1). Federal Rule of Bankruptcy Procedure 1007(b) (3) (A), (C), and (D) and Rule 1007(c) require that a debtor file with the petition a statement of compliance with the counseling requirement along with either:

- A. an attached certificate and debt repayment plan;
- B. a certification under § 109(h) (3); or
- C. a request for a determination by the court under § 109(h) (4).

At the hearing XXXXXXXXXXXX

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 XXXXXXXXXXXX

8. [24-21291](#)-C-13 THERESA WALKER
[LGT](#)-2 Pauldeep Bains

MOTION TO DISMISS CASE
9-5-24 [[27](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 30.

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 17, 2024.

A review of the docket confirms the proposed Chapter 13 plan was denied confirmation, and no plan is set for confirmation hearing. Dkts. 25 & 26.

Debtor's counsel filed a response representing he has been unable to contact the debtor despite multiple attempts through email, text and voicemails.

Failure to confirm a plan constitutes 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.