

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

October 14, 2015 at 10:00 A.M.

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1. [11-42501](#)-C-13 KIMBERLY CROTEAU MOTION TO DISMISS CASE  
DPC-1 David Ritzinger 9-16-15 [[42](#)]

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,355.15 delinquent in plan payments to the Trustee to date with another monthly payment of \$451.69 to become due prior to this hearing. Debtor has paid \$19,874.28 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing. In response to this motion, debtor made 2 payments of \$451.69 each on

September 18, 2015 and September 21, 2015, respectively, and debtor has scheduled a payment of \$451.69 for October 1, 2015, and another payment in the amount of \$451.77 will be made on or before October 14, 2015. The total of all such payments is \$1,806.84, the amount necessary to cure debtor's default and bring debtor's payment current on or prior to the hearing date.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The Plan will complete in 103 months as opposed to 60 months, the maximum allotted time under § 1322(d).

The court has considered the Trustee's reasons for dismissal and finds them to be valid. Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,355.15 delinquent in plan payments to the Trustee to date with another monthly payment of \$451.69 to become due prior to this hearing. Debtor has paid \$19,874.28 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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4. [15-25810](#)-C-13 TIFFANI GRIMES  
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-28-15 [[23](#)]

Thru #6

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**Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:**

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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on September 28, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on September 21, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.00.

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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5. [15-25810](#)-C-13 TIFFANI GRIMES  
Mikalalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
8-27-15 [[17](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on August 27, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on August 24, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$79.00.

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 11, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$307 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$307 is due prior to this hearing. Debtor has paid a total of \$0 into the plan thus far.

The court has considered the Trustee's reason for dismissal and finds it to be valid. Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on July 29, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$19,478 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$4,869.50 is due prior to this hearing. Debtor has paid a total of \$43,825.50 into the plan thus far.

**Prior Hearing**

Debtor reported at the hearing that the delinquency had been cured. The court mandated that, on or before September 23, 2015, Debtor shall file and serve on the Chapter 13 Trustee and U.S. Trustee supplemental evidence and supporting pleadings concerning the source of the monies to cure the default, the reason for the default, and why ability of the Debtor pay the additional sums of money to cure the default and pay the current plan payment is unique only to the month in which the cure payment was made. On or before September 30, 2015, responses to the supplemental pleadings shall be filed and served.

**Supplemental Filings**

Debtor submitted a declaration stating that payments are current and that

delinquency was a result of clients had not paid him for attorney services rendered. Dkt. 63.

The Trustee filed a response stating that as of September 29, 2015, the Debtor is delinquent one plan payment in the amount of \$4,869.50. The Trustee seeks dismissal as delinquency appears to be persistent problem.

### **Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 23, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2).

**The court's decision is to grant the Motion to Dismiss and dismiss the case.**

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,221 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$407 is due prior to the hearing on this matter. Debtor has paid \$0.00 into the plan to date.
2. After the court sustained objections to confirmation on September 22, 2015, the Debtor failed to file an amended plan.

**Discussion**

The Trustee's Motion argues that the Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan on September 22, 2015. A review of the docket shows that Debtor has filed a new plan or a motion to confirm a plan. Dkt. 79. However, there is no indication that Debtor is current on plan payments.

The court has considered the Trustee's reasons for dismissal and finds them to be valid. Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. The Plan fails to provide for the priority claims of the IRS (Claim #19) in the amount of \$5,143.91 and the FTB (Claim #20) in the amount of \$4,708.

**Debtor's Opposition**

Debtors will file an amended plan that provides for the tax claims.

**Discussion**

The docket does not reflect that Debtors filed an amended plan.

The court has considered the Trustee's reasons for dismissal and finds them to be valid. Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on August 11, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor failed to provide for the priority tax claim of FTB (claim #2) in the amount of \$397.44.
2. Debtor is \$2,280 delinquent in plan payments to the Trustee to date. Debtor has paid \$55,040 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing. The delinquency was caused by Debtor's inadvertent bookkeeping error.

**Prior Hearing**

Debtor reported at the hearing that the delinquency had been cured. The court mandated that, on or before September 23, 2015, Debtor shall file and serve on the Chapter 13 Trustee and U.S. Trustee supplemental

evidence and supporting pleadings concerning the source of the monies to cure the default, the reason for the default, and why ability of the Debtor pay the additional sums of money to cure the default and pay the current plan payment is unique only to the month in which the cure payment was made. On or before September 30, 2015, responses to the supplemental pleadings shall be filed and served.

### **Supplemental Filings**

The Trustee filed a response requesting dismissal on the basis that Debtor had failed to docket supplemental filings as requested by the court. Dkt. 132.

### **Discussion**

The docket does not reflect that Debtor has filed supplemental evidence and supporting pleadings concerning the source of the monies to cure the default, the reason for the default, and why ability of the Debtor pay the additional sums of money to cure the default and pay the current plan payment is unique only to the month in which the cure payment was made.

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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11. [15-23317](#)-C-13 ROBERT GUERRA  
Michael Hays

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
8-26-15 [[37](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on August 26, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$70 due on August 21, 2015).

**The court's decision is to discharge the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause was cured on September 8, 2015.

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 case shall proceed in this court.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,425 delinquent in plan payments to the Trustee to date. Debtor has paid \$15,163 into the plan to date.

**Debtor's Opposition**

Debtor states that her employment situation has changed and she needs to modify her plan.

**Discussion**

The docket does not reflect that Debtor has filed a modified plan. The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that Debtors failed to file a modified plan to address the Trustee's first concern.

Cause exists to dismiss this case. 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 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.

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13. [13-31620](#)-C-13 ALBERT SALAZAR  
DPC-1 Gerald Glazer

MOTION TO DISMISS CASE  
9-16-15 [[18](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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14. [15-25721](#)-C-13 NICHOLAS HUGGINS  
DPC-2 Scott Johnson

MOTION TO DISMISS CASE  
9-16-15 [[44](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$4,152 delinquent in plan payments to the Trustee to date with another monthly payment of \$2,250 to become due prior to this hearing. Debtor has paid \$50,320.98 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,910 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$1,455 is due prior to this hearing. Debtor has paid a total of \$43,060 into the plan thus far.

The court has considered the Trustee's reason for dismissal and finds it to be valid. Cause exists to dismiss this case. 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 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.

\*\*\*\*\*



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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on July 31, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtors are \$1,500 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$500 is due prior to this hearing. Debtor has paid a total of \$8,950 into the plan thus far.

**Debtors' Opposition**

Debtors state that they will be current on or before the hearing in this matter.

**Prior Hearing**

Debtor reported at the hearing that the delinquency had been cured. The court mandated that, on or before September 23, 2015, Debtor shall file and serve on the Chapter 13 Trustee and U.S. Trustee supplemental evidence and supporting pleadings concerning the source of the monies to cure the default, the reason for the default, and why ability of

the Debtor pay the additional sums of money to cure the default and pay the current plan payment is unique only to the month in which the cure payment was made. On or before September 30, 2015, responses to the supplemental pleadings shall be filed and served.

### **Supplemental Filings**

Debtor submitted a declaration stating that payments are current. Dkt. 119.

The Trustee filed a response stating that as of September 30, 2015, the Debtor is delinquent one plan payment in the amount of \$500. The Trustee seeks dismissal as delinquency appears to be persistent problem.

### **Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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18. [15-25323](#)-C-13 JAMES/JESSICA WALDMAN  
Seth Hanson

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-4-15 [[19](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on the Debtor Trustee, and other such other parties in interest as stated on the Certificate of Service on September 4, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77 due on August 31, 2015).

**The court's decision is to discharge the Order to Show Cause.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause was cured on September 16, 2015.

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 case shall proceed in this court.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$3,860 delinquent in plan payments to the Trustee to date with another monthly payment of \$1,140 to become due prior to this hearing. Debtor has paid \$4,120 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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**Tentative Ruling:** The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(2) Motion -

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 28, 2015. 14 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$63.34 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$150 is due prior to the hearing on this matter. Debtor has paid \$4,586 into the plan to date.

The court has considered the Trustee's reasons for dismissal and finds them to be valid. Cause exists to dismiss this case. 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 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.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,100 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,100 is due prior to this hearing. Debtor has paid a total of \$0 into the plan thus far.
2. The Debtor's motion to confirm was withdrawn by the Debtor on 7/31/15, and the Debtor has failed to file any subsequent plan or motion to confirm.

The docket does not reflect that Debtor has filed a subsequent plan or motion to confirm. The court has considered the Trustee's reason for dismissal and finds it to be valid. Cause exists to dismiss this case. 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 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.

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22. [13-34931](#)-C-13 SJOERD/MELISSA VERWEIJ  
DPC-1 Gerald White

MOTION TO DISMISS CASE  
9-16-15 [[46](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$600 delinquent in plan payments to the Trustee to date with another monthly payment of \$300 to become due prior to this hearing. Debtor has paid \$4,445 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment will be paid prior to this hearing.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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24. [13-24837](#)-C-13 TIMOTHY/REBEKAH JOHNSON MOTION TO DISMISS CASE  
DPC-2 W. Scott de Bie 9-16-15 [[39](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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25. [15-24237](#)-C-13 LARRY/JENNIFER GASPER  
DPC-2 Mark Briden

MOTION TO DISMISS CASE  
9-15-15 [[38](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$2,615 delinquent in plan payments to the Trustee to date with another monthly payment of \$913 to become due prior to this hearing. Debtor has paid \$35,731 into the plan to date.

**Debtor's Opposition**

Debtor's counsel states that he has an appointment to review and sign an amended plan and substitution of attorney on 10/5/15. Debtor will file an amended plan prior to the hearing.

**Discussion**

The docket does not reflect that Debtor filed an amended plan.

The court has considered the Trustee's reasons for dismissal and finds them to be valid. Cause exists to dismiss this case. 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 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.

\*\*\*\*\*

27. [15-22641](#)-C-13 JOEL MAGANA  
DPC-1 Eamonn Foster

MOTION TO DISMISS CASE  
9-16-15 [[22](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a Withdrawal of the Motion to Dismiss the Bankruptcy Case, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$1,140 delinquent in plan payments to the Trustee to date with another monthly payment of \$380 to become due prior to this hearing. Debtor has paid \$11,400 into the plan to date.

**Debtor's Opposition**

Debtor states that the delinquent payment are cured.

**Discussion**

The court has considered the Trustee's reason for dismissal and finds it to be valid. At this time, the court does not have proof that all delinquent payments have been cured.

Cause exists to dismiss this case. 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 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.

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check back probably withdrawn

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$3,090 delinquent in plan payments to the Trustee to date with another monthly payment of \$1,410 to become due prior to this hearing. Debtor has paid \$30,030 into the plan to date.

**Debtor's Opposition**

The Plan will pay out a 100% dividend to general unsecured creditors. Debtor has timely remitted the sum of \$910 per month, but did not increase his plan payments in January 2015.

Debtor would like to pay off the Plan by borrowing from his 401K and requests a 45 day continuance to obtain the funds and pay the Plan at 100%.

**Discussion**

The court has considered the Trustee's reasons for dismissal and finds them to be valid. At the hearing, the court will discuss the feasibility of Debtor's intent to borrow from his 401K. At this juncture, cause exists to dismiss this case. 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 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.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. That requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor is \$900 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$900 is due prior to this hearing. Debtor has paid a total of \$0 into the plan thus far.
2. The Trustee's objection to confirmation was heard and sustained at the hearing on 9/15/15. There is currently no pending plan or motion to confirm.

The court has considered the Trustee's reason for dismissal and finds it to be valid. The docket reflects that there is currently no pending plan or motion to confirm. Cause exists to dismiss this case. 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 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.

\*\*\*\*

31. [12-27250](#)-C-13 SHARRON HOWARD  
DPC-1 Richard Chan

MOTION TO DISMISS CASE  
9-16-15 [[31](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
-----

The Chapter 13 Trustee having filed a Withdrawal of the Motion to Dismiss the Bankruptcy Case, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$15,240 to date with the last payment received on August 5, 2015. Trustee shows a total of \$19,723 is due, thus Debtor is delinquent \$4,482.50 in plan payments. Prior to the hearing on this matter, a payment of \$1,793 will come due. As a result, Debtor will need to pay \$6,275 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S OPPOSITION**

Debtor states that Debtor has made a payment to Trustee of \$896.50 on September 18, 2015, a payment through TFS of \$1,793 on September 24, 2015, and will overnight \$1,793 on October 9, 2015 and the final payment of \$1,793 will be made on or before the date of hearing on this motion.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that



Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income. Cause exists to dismiss this case. 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 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.

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33. [15-26550](#)-C-13 DOUGLAS WADLEY  
Joseph Canning

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-23-15 [[27](#)]

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**Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:**

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The Order to Show Cause was served by the Clerk of the Court on Douglas Wadley ("Debtor"), Trustee, and other parties in interest on September 23, 2015. The court computes that 21 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on September 18, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
-------------------------------------------------------------------------------------------------

The court's docket reflects that the default in payment which is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: [\$79.00 due September 18, 2015].

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$103,666 to date with the last payment received on September 1, 2015. Trustee shows a total of \$106,715 is due, thus Debtor is delinquent \$3,049 in plan payments. Prior to the hearing on this matter, a payment of \$3,049 will come due. As a result, Debtor will need to pay \$6,098 in order to bring the plan current as of the date of this hearing.

**DEBTORS' RESPONSE**

Debtors state that they paid \$3,049 on September 25, 2015, and plan to be current by the date of the hearing.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such

contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income. Cause exists to dismiss this case. 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 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.

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35. [11-40953](#)-C-13 ASHISH/MONICA PATEL  
DPC-9 Paul Bains

MOTION TO DISMISS CASE  
9-16-15 [[147](#)]

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**Final Ruling:** No appearance at the xxxx, 2014 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$17,610 to date with the last payment received on August 6, 2015. Trustee shows a total of \$21,910 is due, thus Debtor is delinquent \$4,300 in plan payments. Prior to the hearing on this matter, a payment of \$1,340 will come due. As a result, Debtor will need to pay \$5,640 in order to bring the plan current as of the date of this hearing.

**DEBTOR'S RESPONSE**

On September 16, 2015, Debtor responded to Trustee's motion stating that Debtor will be current on payments by the date of hearing.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such

contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

Cause exists to dismiss this case. 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 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.

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37. [15-25756](#)-C-13 JOHN/PATSY DEBBS  
Mikalah Liviakis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-24-15 [[25](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on John Larry Debbs and Patsy Ruth Debbs ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on September 24, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$17 due on September 21, 2015).

**The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has been cured.

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 case shall proceed in this court.

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**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

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Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$76,040 to date with the last payment received on August 13, 2015. Trustee shows a total of \$85,080 is due, thus Debtor is delinquent \$9,040 in plan payments. Prior to the hearing on this matter, a payment of \$4,520 will come due. As a result, Debtor will need to pay \$13,560 in order to bring the plan current as of the date of this hearing.

**DEBTORS' RESPONSE**

Debtors respond to Trustee's motion, stating that they have made a payment to Trustee in the amount of \$4,520 and have filed a motion to modify plan to address the remaining delinquency on September 30, 2015.

**DISCUSSION**

Although the court notes that Debtors have filed a modified plan, attempting to remedy the remaining delinquency of \$9,040 and provide they have remitted \$4,520 to Trustee, Debtors have provided no evidence to the court by way of declaration to show they have actually made that payment. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that

the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel. Cause exists to dismiss this case. 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 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.

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$1,634 to date with the last payment received on June 2, 2015. Trustee shows a total of \$1,806 is due, thus Debtor is delinquent \$172 in plan payments. Prior to the hearing on this matter, a payment of \$86 will come due. As a result, Debtor will need to pay \$258 in order to bring the plan current as of the date of this hearing.

Cause exists to dismiss this case. 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 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.

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40. [15-24566](#)-C-13 BRANDY WOBSCHALL  
Mohammad Mokarram

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-8-15 [[33](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on Brandy Marie Wobschall ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on September 8, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on September 3, 2015).

**The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.**

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has been cured.

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 case shall proceed in this court.

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**Final Ruling:** No appearance at the September 10, 2014 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$180 to date with the last payment received on June 17, 2015. Trustee shows a total of \$520 is due, thus Debtor is delinquent \$340 in plan payments. Prior to the hearing on this matter, a payment of \$140 will come due. As a result, Debtor will need to pay \$480 in order to bring the plan current as of the date of this hearing.

Cause exists to dismiss this case. 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 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.

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42. [15-26270](#)-C-13 ALEJANDRO REYES  
Richard Jare

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-10-15 [[54](#)]

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
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The Order to Show Cause was served by the Clerk of the Court on Alejandro Jose Reyes ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on September 10, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on September 8, 2015).

<b>The court's decision is to discharge the Order to Show Cause, and the case shall proceed in this court.</b>
----------------------------------------------------------------------------------------------------------------

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has been cured.

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 case shall proceed in this court.

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43. [12-38071](#)-C-13 JOEL/DEBBI SMITH  
DPC-2 Gerald Glazer

MOTION TO DISMISS CASE  
9-16-15 [[73](#)]

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**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
-----

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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44. [15-26675](#)-C-13 ARSENIO/ANA VELASCO  
Thomas Gillis

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-28-15 [[25](#)]

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**Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:**

-----

The Order to Show Cause was served by the Clerk of the Court on Arsenio Aberin Velasco and Ana Victoria Velasco ("Debtor"), Trustee, and other parties in interest on September 28, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on September 23, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
-------------------------------------------------------------------------------------------------

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. [The following filing fees are delinquent and unpaid by Debtor: [\$79.00].

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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45. [15-25877](#)-C-13 JOHN MCCALL  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-28-15 [[35](#)]

Also #46

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**Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:**

-----

The Order to Show Cause was served by the Clerk of the Court on John McCall ("Debtor"), Trustee, and other parties in interest on September 28, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$77.00 due on September 22, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
-------------------------------------------------------------------------------------------------

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. [The following filing fees are delinquent and unpaid by Debtor: [\$77.00].

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

\*\*\*\*\*

46. [15-25877](#)-C-13 JOHN MCCALL  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
8-28-15 [[27](#)]

\*\*\*\*\*

**Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:**

-----

The Order to Show Cause was served by the Clerk of the Court on John McCall ("Debtor"), Trustee, and other parties in interest on August 28, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on August 24, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
-------------------------------------------------------------------------------------------------

The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. [The following filing fees are delinquent and unpaid by Debtor: [\$79.00].

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 sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

\*\*\*\*\*

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**Tentative Ruling:** The Motion to Dismiss was properly set for hearing on the notice required by 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. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).**  
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Local Rule 9014-1(f)(2) Motion.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 24, 2015. Fourteen days' notice is required. That requirement was met.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). 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. At the hearing -----.

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors on September 3, 2015. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor is \$2,780 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$2,780 is due September 25, 2015. Debtor has paid \$0 into the plan to date.
3. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the

meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (I) .

Cause exists to dismiss this case. 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 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.

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\*\*\*\*\*

**No Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on August 11, 2015. By the court's calculation, xx days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

**The hearing on the Motion to Dismiss is . . . .**

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default under the terms of the confirmed Plan, 11 U.S.C. § 1307(c)(6). Debtor has paid \$53,939 with the last payment received August 10, 2015. Trustee shows \$61,657 is due, and thus debtor is delinquent \$7,718 in plan payments. Debtor's monthly payment is \$3,642. Prior to the hearing, an additional \$3,642 will become due, and as a result debtor will need to pay \$11,360 to be current by the hearing.

**DEBTORS' RESPONSE**

Debtors respond to the instant motion, stating their intent to bring payments current prior to the date of hearing.

**OCTOBER 14, 2015 HEARING**

At the hearing on this matter on October 14, 2015, the court ordered Debtor to file and serve on Chapter 13 Trustee and U.S. Trustee supplemental evidence and supporting pleadings concerning the source of monies to cure the default, the reason for the default, and state the ability of Debtor to pay the additional sums of money to cure the default and pay the current plan payments is unique only to the month in which the cure payment was made.

## **DEBTORS' SUPPLEMENTAL DECLARATION**

On September 22, 2015, Debtors filed a supplemental declaration in accordance with the court's order. The declaration provides that Debtors fell behind in plan payments because they were forced to assist Debtor Teresa Burk's father, who is in a board and care facility. Debtor's father declined in health and Debtors were forced to hire additional help to administer care. Debtor's brother is an emergency room registered nurse, and has switched locations to be closer to Debtor's father, and as of last week, Debtor's brother assumed the financial responsibility and Debtors should be able to make payments going forward. Moreover, Debtors were forced to repair their vehicles in June 2015.

Debtors made the full amount of delinquent payments to Chapter 13 Trustee on September 1, 2015, and believe that the payments posted to Trustee the morning of September 9, 2015.

Debtors state they were able to extract the funds to may the payment because Debtors are the beneficiaries of Debtor Teresa Burk's father's trust (the Martin Bypass Survivor's Trust). Debtors were able to request an advance on those funds and cure the default. Exhibit A, Dckt. 71.

Debtors are confident they will be able to resume monthly payments without delay.

## **TRUSTEE'S RESPONSE**

Trustee responds to Debtors' declaration, reporting to the court that Debtors are now current through and including September 2015 payments. However, the Trustee's review of Debtors' schedules reveals that the Martin Bypass Survivor's Trustee is not disclosed as an asset on Debtors' schedule B or exempt on Schedule C, and Debtors' Schedule I fails to list any current or future income from the Martin Bypass Survivor's Trust. Trustee is uncertain whether any further income from the trust is expected during the life of the plan and Debtor's declaration is not clear on this issue.

## **DISCUSSION**

At the hearing ---

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 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 . . . .

\*\*\*\*

49. [14-22879](#)-C-13 TIMOTHY CASEY AND  
DPC-1 JENNIFER REUTHER- CASEY  
Kristy Hernandez

MOTION TO DISMISS CASE  
9-16-15 [[27](#)]

\*\*\*\*\*

**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case  
having been filed by the Chapter 13 Trustee,  
the Chapter 13 Trustee having filed an ex  
parte motion to dismiss the Motion without  
prejudice pursuant to Federal Rule of Civil  
Procedure 41(a)(2) and Federal Rules of  
Bankruptcy Procedure 9014 and 7041, dismissal  
of the Motion being consistent with the  
opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss  
the Bankruptcy Case is dismissed without  
prejudice.

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\*\*\*\*\*

**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$11,168 to date with the last payment received on May 27, 2015. Trustee shows a total of \$19,894 is due, thus Debtor is delinquent \$8,726 in plan payments. Prior to the hearing on this matter, a payment of \$2,842 will come due. As a result, Debtor will need to pay \$11,568 in order to bring the plan current as of the date of this hearing.

**DEBTORS' RESPONSE**

Debtors respond, stating their intent to be current by the date of hearing on this motion.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending that Debtor would be "current" by the time of the hearing, the Debtor fails (or



refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

Cause exists to dismiss this case. 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 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.

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51. [13-24081](#)-C-13 VERONICA ALCALA GOMEZ  
DPC-4 C. Anthony Hughes

MOTION TO DISMISS CASE  
9-16-15 [[41](#)]

\*\*\*\*\*

**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
-----

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

\*\*\*\*\*

\*\*\*\*\*

**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$3,200 to date with the last payment received on June 30, 2015. Trustee shows a total of \$4,800 is due, thus Debtor is delinquent \$1,600 in plan payments. Prior to the hearing on this matter, a payment of \$800 will come due. As a result, Debtor will need to pay \$2,400 in order to bring the plan current as of the date of this hearing.

**DEBTORS' RESPONSE**

Debtors respond to Trustee's motion, stating their intent to be current by the date of hearing.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been presented that the Debtor has cured the delinquency. In contending

that Debtor would be "current" by the time of the hearing, the Debtor fails (or refuses) to provide any testimony under penalty of perjury to such contention. Rather, it is merely an argument stated by Debtor's counsel. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

Cause exists to dismiss this case. 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 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.

\*\*\*\*\*

\*\*\*\*\*

**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on August 10, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to continue the hearing to 2:00 p.m. on November 17, 2015.</b>
-------------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default under the terms of the confirmed Plan, 11 U.S.C. § 1307(c)(6). Debtor has paid \$45,457.05 with the last payment received June 24, 2015. Trustee shows \$48,293.15 is due, and thus debtor is delinquent \$2,836.10 in plan payments. Debtor's monthly payment is \$1,222.55. Prior to the hearing, an additional \$1,222.55 will become due, and as a result debtor will need to pay \$4,058.65 to be current by the hearing.

**DEBTOR'S RESPONSE**

Debtor responds Trustee's motion, providing that a substitution of attorney is pending and that Debtor's new attorney requires additional time to analyze and determine if an amended plan is necessary. Debtor requests that the court continue the instant motion for thirty (30) days.

**SEPTEMBER 9, 2015 HEARING**

At the hearing on September 9, 2015, the court continued this matter to permit time for Debtor's new attorney to analyze and determine if an amended plan was necessary.

## DISCUSSION

The court docket reflects that Debtor filed a Motion to Modify Plan, Dckt. 73, and Modified Plan, Dckt. 77, on the docket on September 30, 2015. The hearing on the Motion to Modify has been set for November 17, 2015 at 2:00 p.m. Additionally, on September 30, 2015, Debtor's surviving spouse Jamall Corker filed a Notice of Death and Motion for Omnibus Relief, Dckt Control No. PGM-1, Dckt. 68, **providing that Debtor Christina M.E. Corker died on February 10, 2013 and that the surviving spouse is the successor in interest in this case, moving for further administration of the case. Hearing on the Notice of Death and Motion for Omnibus Relief is set for hearing on November 17, 2015. The court will continue the instant motion to take place concurrently with the Motion to Modify Plan and Notice of Death and Motion for Omnibus Relief.**

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 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 hearing on the Motion to Dismiss is continued to 2:00 p.m. on November 17, 2015.

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54. [14-28088](#)-C-13 EDWARD GRINDROD  
DPC-2 C. Anthony Hughes

MOTION TO DISMISS CASE  
9-16-15 [[35](#)]

\*\*\*\*\*

**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
-----

The Chapter 13 Trustee having filed a "Withdrawal of Motion" for the pending Motion to Dismiss the Bankruptcy Case, the "Withdrawal" being consistent with the opposition filed to the Motion, the court interpreting the "Withdrawal of Motion" to be an ex parte motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041 for the court to dismiss without prejudice the Motion to Dismiss the Bankruptcy Case, and good cause appearing, **the court dismisses without prejudice the Chapter 13 Trustee's Motion to Dismiss the Bankruptcy Case.**

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.

A Motion to Dismiss the Bankruptcy Case having been filed by the Chapter 13 Trustee, the Chapter 13 Trustee having filed an ex parte motion to dismiss the Motion without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, dismissal of the Motion being consistent with the opposition filed, and good cause appearing,

**IT IS ORDERED** that the Motion to Dismiss the Bankruptcy Case is dismissed without prejudice.

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\*\*\*\*\*

**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
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Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 15, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

<b>The court's decision is to continue the Motion to Dismiss to November 17, 2015 at 2:00 p.m.</b>
----------------------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the continued first meeting of creditors on September 10, 2015. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor has not provided Trustee with a tax transcript or a copy of the Federal Income Tax Report with attachments for the most recent pre-petition tax year for which a return was required, or a written statement that no such documentation exists. 11 U.S.C. § 521(e)(2)(A). This is required 7 days before the date set for the meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).
3. Debtor has failed to file all prepetition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. §§ 1308 & 1325(a)(9). Debtor testified at the First Meeting of Creditors held on July 16, 2015 that no federal tax returns for 2011, 2012, 2013, or 2014 have been filed.

#### **DEBTOR'S OPPOSITION**

Debtor has filed an opposition to Trustee's motion, Dckt. 59, with accompanying declaration of Debtor Eric Alfred Francois, Dckt. 60. Debtor



states that he did not appear at the First Meeting of Creditors because the continued date because his income tax returns were not completed by the continued date. Debtor's attorney appeared on September 10, 2015, and Debtor believed this to be sufficient. Debtor states that he will appear at the next meeting on November 5, 2015.

Debtor further provides that he has completed and filed his tax returns for the years 2011, 2012, and 2013. Debtor states that he has requested an extension of time for the 2014 tax returns and Debtor believes that they are not due pursuant to the extension until October 16, 2015. Debtor asserts he will have his 2014 returns filed by October 15, 2015.

#### **TRUSTEE'S RESPONSE**

Trustee responds, stating that Trustee has received Debtor's tax returns for tax years 2011, 2012, and 2013. Further Trustee notes that the meeting has been continued to November 5, 2015 at request of Debtor's counsel.

#### **DISCUSSION**

Although Debtor states in his declaration that he intends to file his tax returns by October 15, 2015, and has requested an extension for filing 2014 tax returns. Noting that the first meeting of creditors has been continued to November 5, 2015, the court will continue the instant motion to a date beyond November 5, 2015, in order to ascertain whether Debtor appears at the continued meeting and whether the 2014 tax returns have been filed.

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 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 continued to November 17, 2015 at 2:00 p.m.

\*\*\*\*\*

\*\*\*\*\*

**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 15, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
-------------------------------------------------------------------------------------

The Chapter 13 Trustee seeks dismissal of Debtor's case based on the following:

1. Debtor did not appear at the first meeting of creditors on August 13, 2015. Trustee does not have sufficient information to determine if the plan is suitable for confirmation under 11 U.S.C. § 1325.
2. Debtor is \$6,290 delinquent in plan payments to the Trustee to date and the next scheduled payment of \$3,145 is due September 25, 2015. The case was filed on June 29, 2015, and Debtor has paid \$0 into the plan to date. The plan cannot be confirmed under 11 U.S.C. § 1325(a)(2).
3. Debtor filed a plan on July 16, 2015, Dckt. 16. However Debtor has not served the plan on all interested parties and no Motion to Confirm has been set for hearing. The Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors and Deadlines was filed on July 16, 2015, Dckt. 17. A confirmation hearing is required to be held not earlier than 20 days and not later than 45 days after the date of the first meeting of creditors, unless the court determines it would be in the best interest of creditors and the estate to hold the hearing sooner. The first meeting was held on August 13, 2015.

## **DEBTOR'S RESPONSE**

Debtor responds to Trustee's motion, stating he will file, set, serve and be current under an amended plan prior to hearing on this matter.

## **DISCUSSION**

Although Debtor asserts his intention to file an amended plan and set it for hearing, the court docket reflects that no such action has been taken by Debtor. Trustee's basis for the Motion to Dismiss stand, and cause exists to dismiss this case. 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 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.

\*\*\*\*\*

57. [15-25193](#)-C-13 CONCHITA ZAPANTA  
Pro Se

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-2-15 [[30](#)]

DEBTOR DISMISSED: 9/13/2015

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**Final Ruling: No appearance at the October 14, 2015 hearing is required.**  
-----

The Order to Show Cause was served by the Clerk of the Court on Conchita Zapanta ("Debtor"), Trustee, and other such other parties in interest as stated on the Certificate of Service on September 2, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay a fee installment of \$77.00 on August 28, 2015.

**The Order to Show Cause is discharged as moot.**

The court having dismissed this bankruptcy case by prior order filed on September 13, 2015 (Dckt. 36), the Order to Show Cause is discharged as moot, with no sanctions ordered.

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 as moot, and no sanctions are ordered.

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\*\*\*\*\*

**Final Ruling:** No appearance at the October 14, 2015 hearing is required.  
-----

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

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

The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$7,080 to date with the last payment received on June 18, 2015. Trustee shows a total of \$7,872 is due, thus Debtor is delinquent \$791.40 in plan payments. Prior to the hearing on this matter, a payment of \$262.40 will come due. As a result, Debtor will need to pay \$1,053.80 in order to bring the plan current as of the date of this hearing.

Cause exists to dismiss this case. 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 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.

\*\*\*\*\*

\*\*\*\*\*

**Tentative Ruling:** The Motion to Dismiss 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)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling.**

-----  
Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on September 16, 2015. 28 days' notice is required. This requirement was met.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The Debtor filed opposition. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. Local Bankr. R. 9014-1(g).

<b>The court's decision is to grant the Motion to Dismiss and dismiss the case.</b>
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The Chapter 13 Trustee seeks dismissal of Debtor's case on the basis that Debtor is in material default with respect to the term of a confirmed plan, 11 U.S.C. § 1307(c)(6). Debtor has paid a total of \$32,186 to date with the last payment received on July 15, 2015. Trustee shows a total of \$37,015 is due, thus Debtor is delinquent \$4,829 in plan payments. Prior to the hearing on this matter, a payment of \$3,510 will come due. As a result, Debtor will need to pay \$8,339 in order to bring the plan current as of the date of this hearing.

**DEBTORS' RESPONSE**

Debtors respond to Trustee's motion, stating that they will make every effort to cure the delinquent payments to Trustee by the date of hearing on this motion.

**DISCUSSION**

Although Debtors have stated their intent to be current by the date of hearing, they have not provided evidence to the court that they are actually current. No testimony, or even argument by counsel, is provided as to why the Debtor has defaulted in the payments. To date, no evidence has been

presented that the Debtor has cured the delinquency. Further, Debtor offers no testimony or argument as to how such a substantial default could be cured in one month given the Debtor's limited projected disposable income.

Cause exists to dismiss this case. 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 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.

\*\*\*\*\*

60. [15-26596](#)-C-13 MANUEL/STEPHANIE DOWDEN  
Mohammad Mokarram

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-24-15 [[20](#)]

\*\*\*\*

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

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The Order to Show Cause was served by the Clerk of the Court on Manuel Grant Dowden and Stephanie Joy Dowden ("Debtor"), Trustee, and other parties in interest on September 24, 2015.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case (\$79.00 due on September 21, 2015).

<b>The court's decision is to sustain the Order to Show Cause and order the case dismissed.</b>
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The court's docket reflects that the default in payment which is the subjection of the Order to Show Cause has not been cured. [The following filing fees are delinquent and unpaid by Debtor: [\$79.00].

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, no other sanctions are issued pursuant thereto, and the case is dismissed.

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