

UNITED STATES BANKRUPTCY COURT

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

November 13, 2024 at 9:00 a.m.

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1. [24-20106-E-13](#)      **ROBERT DAVALOS**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **Seth Hanson**      **10-4-24 [24]**

**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.

**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)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 4, 2024. By the court’s calculation, 40 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<b>The Motion to Dismiss is <span style="color: red;">xxxxxxx</span>.</b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Robert Jesse Davalos (“Debtor”), is delinquent \$4,600.00 in plan payments. Debtor will need to have paid \$6,900.00 to become current by the hearing date. Mot. 1:19-22, Docket 24.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 26.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on October 30, 2024. Dockets 28, 29. Debtor states the delinquency will be cured prior to the hearing date, curing the delinquency on November 4, 2024, by cashier's check.

## **DISCUSSION**

### **Delinquent**

Debtor is \$4,600.00 delinquent in plan payments, which represents multiple months of the \$2,300 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In confirming if Debtor has cured the delinquency, at the hearing, **XXXXXXX**

The court shall issue an 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, David Cusick ("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 **XXXXXXX**.

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 6, 2024. By the court’s calculation, 68 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span>.</b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Tammy Marie Andrews (“Debtor”), has no Plan pending after Trustee objected to the original Plan, which this court sustained on July 16, 2024. Mot. 1:24-27, Docket 25.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 27.

## **DEBTOR’S RESPONSE**

Debtor filed a Declaration in response on October 30, 2024. Docket 36. Debtor requests the Motion be continued as Debtor is in the process of preparing an Amended Plan to be set for hearing for December 17, 2024, to be heard in conjunction with a Motion to Value on which the Plan depends.

## **DISCUSSION**

### **Prior Plan Denied, No New Plan**

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 July 21, 2024. Docket 22.

### **Plan and Motion to Confirm Filed**

Debtor has filed a Motion to Confirm First Amended Plan (Dckt. 37), but has not filed a First Amended Plan. It appears that Debtor has attached the First Amended Plan as an exhibit in support of the Motion to Confirm. Exhibit 2; Dckt. 40.

Debtor needs to file the First Amended Plan as a separate pleading.

From the court's preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 39) states personal knowledge testimony in support of the Motion to Confirm.

At the hearing, **XXXXXXX**

~~Given Debtor's active prosecution of confirmation of a Plan, the Motion is denied without prejudice.~~

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, David Cusick ("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 denied without prejudice.

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on September 11, 2024. By the court's calculation, 63 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

**The Motion to Dismiss is XXXXXXX.**

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Douglas Yoshito Carillo ("Debtor"), is delinquent \$1,466.00 in plan payments. Debtor will need to have paid \$2,932.00 to become current by the hearing date. Mot. 1:19-22, Docket 42.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 44.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on October 30, 2024. Dockets 46, 47. Debtor acknowledges the delinquency and states he will convert to Chapter 7 prior to the hearing.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,466.00 delinquent in plan payments, which represents multiple months of the \$733 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states an intention to convert the case, but as of November 4, 2024, no conversion has been filed with the court. At the hearing, XXXXXXX

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

4. [24-20714-E-13](#)      **BRITTANY DOWDY**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **Scott Johnson**      **10-4-24 [16]**

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on October 4, 2024. By the court’s calculation, 40 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <b>XXXXXXX</b>.</b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Brittany Antionette Dowdy (“Debtor”), is delinquent \$1,380.00 in plan payments. Debtor will need to have paid \$2,070 to become current by the hearing date. Mot. 1:19-22, Docket 16.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 18.

## **DEBTOR'S RESPONSE**

Debtor filed a Response on October 30, 2024. Docket 20. Debtor states she intends to file a Modified Plan set and served prior to this hearing that will address the delinquency.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,380.00 delinquent in plan payments, which represents multiple months of the \$690 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states her intention of filing a Modified Plan to address this delinquency. As of November 4, 2024, no Modified Plan is on the Docket.

At the hearing, **XXXXXXX**

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick ("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 **XXXXXXX**.

**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.

**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)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 23, 2024. By the court’s calculation, 21 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Ana Lilia Corral and Francisco Corral (“Debtor”), is delinquent \$13,915.00 in plan payments. Debtor will need to have paid \$16,715.00 to become current by the hearing date. Mot. 1:23-2:2, Docket 35.

Trustee submitted the Declaration of Christina Lloyd to authenticate the facts alleged in the Motion. Decl., Docket 37.

## **DISCUSSION**

### **Delinquent**

Debtor is \$13,915.00 delinquent in plan payments, which represents multiple months of the \$2,800 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).



Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

6. <a href="#">19-27920-E-13</a> <a href="#">DPC-3</a>	<b>MICHAEL MULLINS</b> <b>Peter Macaluso</b>	<b>CONTINUED MOTION TO DISMISS</b> <b>CASE</b> <b>6-14-24 [94]</b>
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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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on June 14, 2024. By the court’s calculation, 61 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is granted.</b>
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#### **November 13, 2024 Hearing**

The court continued the hearing on this Motion to allow Debtor to cure the outstanding delinquency and show he can make ongoing payments. On October 29, 2024, Trustee filed a Status Report with the court. Docket 111. Trustee informs the court that Debtor did pay \$3,100 in September, but only

paid \$20 in October, and so Debtor remains \$6,014.53 delinquent. Trustee recommends the Motion be granted.

At the hearing, **XXXXXXX**

### **REVIEW OF THE MOTION**

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Michael Roy Mullins (“Debtor”), is delinquent \$5,267.93 in plan payments. Debtor will need to have paid \$11,374.57 to become current by the hearing date. Mot. 1:19-22, Docket 94.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 96.

### **DEBTOR’S RESPONSE**

Debtor filed a Response and accompanying Declaration on July 31, 2024. Dockets 98, 99. Debtor states the delinquency will be cured prior to the hearing date and reminds the court he has already paid over \$143,775.15 toward his Plan.

### **DISCUSSION**

#### **Delinquent**

Debtor is \$5,267.93 delinquent in plan payments, which represents multiple months of the \$3,053.32 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In this case, Debtor has testified they will become current by the hearing date. At the hearing, counsel for the Trustee reported that Debtor is delinquent four plan payments.

The Trustee requested a continuance, rather than a conditional dismissal, given the facts and circumstances of Debtor’s performance and the terms of the Plan.

### **SEPTEMBER 18, 2024 HEARING**

The court continued the hearing given the age of this case and the amount Debtor has paid to date. Nothing new has been filed in the case as of the court’s review on September 11, 2024.

Counsel for Debtor reported that a cashier’s check for \$3,100.00 is in transit. The Chapter 13 Trustee agreed to a continuance to allow the Debtor to not only cure the existing default, but demonstrate that the ongoing payments will be made timely.

The hearing on the Motion to Dismiss is continued to 9:00 a.m. on November 13, 2024.

The court shall issue an 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, David Cusick (“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.

7. [20-21721-E-13](#)      **KIRKWINDELL GARLIT**      **MOTION TO DISMISS CASE**  
[DPC-3](#)      **Seth Hanson**      **9-16-24 [63]**

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 16, 2024. By the court’s calculation, 58 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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 Motion to Dismiss is granted, and the case is dismissed.</b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Kirkwindell Sablad Garlit (“Debtor”), is delinquent \$3,573.66 in plan payments. Debtor will need to have paid \$8,029.28 to become current by the hearing date. Mot. 1:19-22, Docket 63.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 65.

## **DISCUSSION**

### **Delinquent**

Debtor is \$3,573.66 delinquent in plan payments, which represents multiple months of the \$2,227.81 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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:** 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)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 23, 2024. By the court’s calculation, 21 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Charles Dana Kryszewski (“Debtor”), is delinquent \$2,550.00 in plan payments. Mot. 1:23-2:3, Docket 60.

Trustee submitted the Declaration of Christina Lloyd to authenticate the facts alleged in the Motion. Decl., Docket 62.

## DISCUSSION

### Delinquent

Debtor is \$2,550.00 delinquent in plan payments, which represents multiple months of the \$850.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

9.	<a href="#"><u>24-22426-E-13</u></a>	<b>JAMALL ROBINSON</b>	<b>MOTION TO DISMISS CASE</b>
	<a href="#"><u>DPC-3</u></a>	<b>Richard Kwun</b>	<b>10-16-24 [65]</b>

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on October 16, 2024. By the court’s calculation, 28 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span>.</b>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jamall Joseph Robinson (“Debtor”), is delinquent \$2,754.45 in plan payments Mot. 1:23-28, Docket 65.

2. Debtor has not filed a new Plan since the court sustained Trustee's Objection to Confirmation of the previous Plan on August 20, 2024. *Id.* at 2:1-10.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 67.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on October 30, 2024. Dockets 80, 81. Debtor states the delinquency arose due to a misunderstanding, Debtor believing he did not have to make Plan payments since the court sustained the Objection to Confirmation. Debtor states he will become current prior to the hearing.

## **DISCUSSION**

### **Delinquent**

Debtor is \$2,754.45 delinquent in plan payments, which represents multiple months of the \$918.15 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Prior Plan Denied, No New Plan**

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 August 20, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick ("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 **XXXXXXX**.

**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, then 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 Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on October 21, 2024. The court computes that 23 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: \$78 due on October 15, 2024.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.



**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, then 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 Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on September 21, 2024. The court computes that 53 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: \$78 due on September 16, 2024.

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

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on October 15, 2024. By the court's calculation, 29 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). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Moises Serrano Garcia ("Debtor"), is delinquent \$12,075.00 in plan payments. Mot. 1:23-28, Docket 113.
2. Debtor failed to submit proof of his social security number and a copy of a government issued picture identification to the Trustee before the First Meeting of Creditors held on August 1, 2024, as required pursuant to FRBP 4002(b)(1)(A) and (B). *Id.* at 2:1-8.
3. Debtor failed to provide 11 U.S.C. § 521 documents, including 60 days of employer payment advices and a tax transcript or copy of his federal tax return. *Id.* at 2:9-18.
4. Debtor has inaccurate or missing information on his Schedules, including the fact he has not scheduled the fact that he paid someone several hundred dollars to assist in the filing, and there is no detailed statement of net business or rental income attached. *Id.* at 2:19-26.
5. Debtor has not filed a Plan since this court sustained the objections under the previous Plan. *Id.* at 2:27-3:2.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 115.

## **DISCUSSION**

### **Delinquent**

Debtor is \$12,075.00 delinquent in plan payments, which represents multiple months of the \$4,025 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Authenticate Identification Prior to Meeting of Creditors**

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause for dismissal.

### **Failure to Provide Tax Returns**

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Pay Advices**

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Inaccurate or Missing Information**

Debtor's Schedules I and J contain outdated or inaccurate information. Without an accurate picture of debtor's financial reality, the court is unable to determine if the Plan is confirmable. *See* 11 U.S.C. § 1325(a)(6).

### **Prior Plan Denied, No New Plan**

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 10, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick ("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.

13. [21-23539-E-13](#)  
[DPC-4](#)

**DEREK WOLF**  
**Peter Macaluso**

**MOTION TO DISMISS CASE**  
**9-16-24 [\[325\]](#)**

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on September 16, 2024. By the court's calculation, 58 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">xxxxxxx</span>.</b>
---

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Derek L Wolf (“Debtor”), is delinquent \$37,057.99 in plan payments. Debtor will need to have paid \$40,536.83 to become current by the hearing date. Mot. 1:19-22, Docket 325.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 327.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on October 29, 2024. Docket 329. Debtor states that he has received several “grants” that were paid directly to the mortgagee, accounting for the delinquency that Trustee mentions. Debtor has set a new Modified Plan for confirmation to take into account the grant payments.

## **DISCUSSION**

### **Delinquent**

By the Trustee’s measure, Debtor is extremely delinquent in plan payments in the amount of \$37,057.99, which represents multiple months of the \$1,739.42 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states grant monies have been paid to the secured creditor in this case, but no evidence of such payments has been filed with the court. At the hearing, **XXXXXXX**

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on August 6, 2024. By the court's calculation, 43 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">xxxxxxx</span>.</b>
---

#### November 13, 2024 Hearing

The court continued this Motion at the Trustee's bequest, the court finding that Debtor likely has funds to prosecute the case but may be lacking in the legal knowledge about how to move this case forward. The court by separate Order issued a Status Conference to address these issues. Order, Docket 48. That Status Conference was held on October 22, 2024, where Debtor was ordered to appear, and where Debtor did not make an appearance.

At the hearing, xxxxxxx

#### REVIEW OF THE MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Phillistine Elizabeth Vosley ("Debtor"), is delinquent \$2,158.12 in plan payments. Mot. 1:24, Docket 39.
2. Trustee objected to confirmation of the Debtor's original Plan, which was sustained at hearing on May 7, 2024, (Docket 28). The Debtor has failed to file an amended Plan and set a hearing for confirmation. Mot. 2:3-6, Docket 39.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 41.

## **DEBTOR'S RESPONSE**

Debtor filed a Response on September 6, 2024. Docket 43. Debtor opposes dismissal, stating she is actually current on plan payments. She also states she has set a plan to cure the arrearage on her mortgage payments.

However, no Amended Plan is on the docket as of September 11, 2024.

While the Debtor is actively engaged in this Case, she appears to be struggling with the procedures and law. The Response filed to the Motion to Dismiss is actually the Motion to Dismiss form from the Central District of California. Though titled as a Motion to Dismiss and the first sentence states, "Debtor moves this court for an order dismissing the above-entitled bankruptcy case pursuant to 11 U.S.C. § 1307(b) and LBR 3015-1(q)(1)."

However, in paragraph 4 of the "Motion to Dismiss" Debtor clearly states that she opposes dismissal.

## **DISCUSSION**

### **Delinquency**

Debtor is \$2,158.12 delinquent in plan payments, which represents roughly one month of the payment. Before the hearing, another plan payment will be due. Delinquency indicates that the Plan is not feasible and is reason to deny confirmation. *See* 11 U.S.C. § 1325(a)(6).

However, Debtor contends she is current on plan payments.

### **Prior Plan Denied, No New Plan**

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 May 9, 2024. Docket 28. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor states she has contacted her mortgage company and set a plan to pay the arrearage.

### **September 18, 2024 Hearing**

At the hearing, the Chapter 13 Trustee addressed the Debtor's attempted prosecution of this Case, but her failure to move forward with a motion to confirm. While having the financial ability to prosecute a Plan, the Debtor in pro se may not have the "legal knowledge" to prosecute the case.

The Trustee requested a continuance to afford the Debtor the opportunity to address these matters with the court.

The hearing on the Motion to Dismiss is continued 9:00 a.m. on November 13, 2024.

The court shall issue a separate Order for a Status Conference to allow the Debtor to address her prosecution of this Case.

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

15. [24-23545](#)-E-13

**KEVIN NORMAN**  
**Peter Macaluso**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**10-16-24** [\[43\]](#)

**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, then 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 Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 17, 2024. The court computes that xx 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: \$78 due on October 11, 2024.

<p><b>The Order to Show Cause is sustained, and the case is dismissed.</b></p>
--

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

16. [17-27346-E-13](#)  
[DPC-13](#)

**KENNETH TABOR**  
**Scott Shumaker**

**MOTION TO DISMISS CASE**  
**10-7-24 [282]**

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on October 7, 2024. By the court's calculation, 37 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span> .</b>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kenneth Roger Tabor ("Debtor"), is delinquent \$7,780.00 in plan payments. Debtor will need to have paid \$9,725.00 to become current by the hearing date. Mot. 1:19-22, Docket 282.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 284.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration of his attorney on October 29, 2024. Dockets 286, 287. Debtor's attorney states the delinquency will be cured prior to the hearing date.

## **DISCUSSION**

### **Delinquent**

Debtor is \$7,780.00 delinquent in plan payments, which represents multiple months of the \$1,945.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

On November 6, 2024, the Trustee filed a Reply, stating that while the Trustee has received a payment of \$6,441.38, that is not sufficient in light of the \$946.22 mortgage payment that is part of the Plan.

At the hearing, **XXXXXXX**

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

DAVID DRADER VS.

Item 17 thru 18

**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.

**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)(C).**

-----

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, attorneys of record who have appeared in the bankruptcy case, creditors, and Office of the United States Trustee on September 3, 2024. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

The Motion for Relief from the Automatic Stay was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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.

Opposition was stated at the hearing.

<b>The Motion for Relief from the Automatic Stay is <span style="color: red;">XXXXXXX</span>.</b>
---

**November 13, 2024 Hearing**

The court continued the hearing on this Motion to be heard in conjunction with the Chapter 13 Trustee's Motion to Dismiss. The court has denied that Motion to Dismiss without prejudice.

At the hearing, XXXXXXX

**REVIEW OF MOTION**

Mary Drader and David Drader (“Movant”) seek relief from the automatic stay with respect to Tamany Resovich’s (“Debtor”) real property commonly known as 5001 Bonanza Auto Road, Shingle Springs, California 95682 (“Property”). Movant has provided the Declaration of David Drader to introduce evidence to authenticate the documents upon which it bases the claim and the obligation secured by the Property. Decl., Docket 100.

Movant argues Debtor has not made four post-petition payments, with a total of \$3,549.32 in post-petition payments past due. Declaration ¶ 9, Docket 100. Mr. Drader testifies it is his opinion that the Property has a value of \$300,000. *Id.* at ¶ 10. As of February 28, 2024, the principal balance owed on the Note is \$124,517.05. Mot. 3:12-13, Docket 98.

Mr. Drader testifies that he is a he is “one of the owners of the real property commonly known as 4001 Bonanza Auto Road, Shingle Springs, California 95628.” Dec., ¶ 1; Dckt. 100. As stated above, paragraph 10 of his Declaration states that “It is my opinion that the property is worth \$300,000. No expert testimony or other evidence of value by Movant is provided.

### **Conflicting Evidence and Arguments as to Ownership of the Property**

In paragraph 2 of the Motion it is stated that the Debtor “is the owner of the real property located at 5001 Bonanza Auto Road, Shingle Springs, California. . . .” Motion, ¶ 2; Dckt. 98. The Motion does not state that the Debtor only owns a fractional interest in the Property or that there are any other owners.

However, David Drader, under penalty of perjury, states that he is one of the owners of the Property, stating under penalty of perjury that there are multiple owners. Dec.; ¶ 1; Dckt. 100. Either the Declaration provides false testimony or the Motion is incorrect.

On Schedule A/B Debtor states under penalty of perjury that she is the sole owner of the Property and that it has a value of \$300,000. Sch. A/B, ¶ 1.1; Dckt. 1. Movant’s Motion does not provide this as evidence of the value of the Property.

## **DISCUSSION**

### **11 U.S.C. § 362(d)(1): Granting Relief for Cause**

Whether there is cause under 11 U.S.C. § 362(d)(1) to grant relief from the automatic stay is a matter within the discretion of a bankruptcy court and is decided on a case-by-case basis. *See J E Livestock, Inc. v. Wells Fargo Bank, N.A. (In re J E Livestock, Inc.)*, 375 B.R. 892 (B.A.P. 10th Cir. 2007) (quoting *In re Busch*, 294 B.R. 137, 140 (B.A.P. 10th Cir. 2003)) (explaining that granting relief is determined on a case-by-case basis because “cause” is not further defined in the Bankruptcy Code); *In re Silverling*, 179 B.R. 909 (Bankr. E.D. Cal. 1995), *aff’d sub nom. Silverling v. United States (In re Silverling)*, No. CIV. S-95-470 WBS, 1996 U.S. Dist. LEXIS 4332 (E.D. Cal. 1996). While granting relief for cause includes a lack of adequate protection, there are other grounds. *See In re J E Livestock, Inc.*, 375 B.R. at 897 (quoting *In re Busch*, 294 B.R. at 140). The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *W. Equities, Inc. v. Harlan (In re Harlan)*, 783 F.2d 839 (9th Cir. 1986); *Ellis v. Parr (In re Ellis)*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

## **SEPTEMBER 24, 2024 HEARING**

At the hearing, counsel for Movant reported that one payment remained in default. Counsel for Debtor appeared in court with copies of the money orders for all payments, with the most recent having been sent approximately one week before the hearing.

The counsel shall confer with their clients to determine whether all payments have been received and this matter may be dismissed.

The hearing on the Motion for Relief from the Automatic Stay is continued to 2:00 p.m. on October 22, 2024 (Specially set time). Opposition to the Motion shall be filed and served on or before October 4, 2024, and Replies, if any, filed and served on or before October 16, 2024.

## **October 22, 2024 Hearing**

The court continued the hearing on this Motion to allow Debtor time to cure the delinquency. The court set the following deadlines in continuing the hearing: Opposition to the Motion shall be filed and served on or before October 4, 2024, and Replies, if any, filed and served on or before October 16, 2024. Order, Docket 106.

On October 14, 2024, Movant filed a Status Report. Docket 114. Movant states that Debtor has managed to cure some of the delinquency that is subject of this Motion, but Debtor remains delinquent \$1,850.86 and requests the Motion be granted. *Id.* at 2:3-9. This is Movant's second Motion for Relief, having been brought after Debtor again defaulted since curing the default of the original Motion for Relief.

At the hearing, counsel for the Movant reported that some additional payments have been received, but are \$76.20 in late charges to be paid.

Counsel for Debtor states that they do not believe they are in default, stating that Movant has not been "diligent" in providing Debtor with statements showing any outstanding unpaid balances.

In light of the possible small outstanding balance, the Parties agreed to continue the hearing on this Motion to 9:00 a.m. on November 13, 2024, to be heard in conjunction with the Chapter 13 Trustee's Motion to Dismiss. Counsel for the Movant will get a statement showing the balance of \$76.20, which counsel for the Debtor can review with his client and either confirm to make payment or identify the dispute.

The Motion is dismissed without prejudice.

The court shall issue an 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 for Relief from the Automatic Stay filed by Mary Drader and David Drader ("Movant") 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 is **XXXXXXX**.

18. [22-23246-E-13](#)  
[DPC-5](#)

**TAMANY RESOVICH**  
**Matthew Gilbert**

**MOTION TO DISMISS CASE**  
**10-7-24 [110]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on November 6, 2024, Docket 126; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Tamany Erin Resovich (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 126, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

**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.

**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)(C).**

-----

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 29, 2024. By the court’s calculation, 15 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jose Antonio Garcia (“Debtor”), is delinquent \$5,330.00 in plan payments. Mot. 1:25-2:11, Docket 99.
2. Debtor may not have filed his tax return for 2023 based on the claim of the Internal Revenue Service. *Id.* at 2:13-15.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 100.

## DISCUSSION

### Delinquent

Debtor is \$5,330 delinquent in plan payments, which represents one month of the plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Moreover, Debtor may not have filed the required postpetition tax refunds. At the hearing, **XXXXXXX**  
Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

20. <a href="#">23-23152-E-13</a>	<b>MELANIE JOHNSON</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#">DPC-1</a>	<b>Michael Hays</b>	<b>10-4-24 [85]</b>

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on October 4, 2024. By the court’s calculation, 40 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <b>XXXXXXX</b>.</b>
---

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:



1. The debtor, Melanie Megan Johnson (“Debtor”), is delinquent \$1,291.00 in plan payments. Debtor will need to have paid \$2,727.26 to become current by the hearing date. Mot. 1:19-22, Docket 85.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 87.

## **DEBTOR’S RESPONSE**

Debtor filed a Response and supporting Declaration on October 30, 2024. Dockets 46, 47. Debtor acknowledges the delinquency and states he will convert to Chapter 7 prior to the hearing.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,291.00 delinquent in plan payments, which represents one month of the \$1,436.26 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor states an intention to convert the case, but as of November 5, 2024, no conversion has been filed with the court. At the hearing, **XXXXXXX**

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on October 4, 2024. By the court's calculation, 40 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<p><b>The Motion to Dismiss is denied without prejudice.</b></p>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kimberly Jordan ("Debtor"), is delinquent \$1,248.00 in plan payments. Debtor will need to have paid \$1,690.00 to become current by the hearing date. Mot. 1:19-22, Docket 34.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 36.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration and exhibits on November 4, 2024. Dockets 38-40. Debtor states she has cured the delinquency prior to the hearing date. The Exhibits show a payment being made through TFS to clear the delinquency.

## **DISCUSSION**

### **Delinquent**

In confirming if Debtor has cured the delinquency, at the hearing, **XXXXXXX**

The court shall issue an 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, David Cusick (“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 denied without prejudice.

22. [24-23759](#)-E-13  
[DPC-2](#)

ABDUL MUNIF  
Pro Se

**MOTION TO DISMISS CASE**  
**10-9-24 [36]**

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (pro se), parties requesting special notice, and Office of the United States Trustee on October 9, 2024. By the court’s calculation, 35 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). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Abdul Munif (“Debtor”), is delinquent \$1,216.15 in plan payments. Mot. 1:24-2:2, Docket 36.
2. Debtor failed to appear at the duly noticed First Meeting of Creditors set for October 3, 2024, as required pursuant to 11 U.S.C. § 343. *Id.* at 2:3-6.
3. Debtor failed to provide 11 U.S.C. § 521 documents, including 60 days of employer payment advices and a tax transcript or copy of his federal tax return. *Id.* at 2:8-18.
4. Debtor failed to submit proof of his social security number, and a copy of a government issued picture identification to the Trustee before the First

Meeting of Creditors held on October 3, 2024, as required pursuant to FRBP 4002(b)(1)(A) and (B). *Id.* at 2:7-18.

5. Debtor has not correctly utilized the Chapter 13 Plan standard form required in the Eastern District of California. 2:26-3:5.

Trustee submitted the Declaration of trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 38.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,216.15 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failed to Appear at § 341 Meeting of Creditors**

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

### **Failure to Provide Tax Returns**

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Pay Advices**

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Social Security Number**

Debtor has not provided Trustee with proof of a Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Wrong Plan Form Used**

Debtor's Plan is based upon a plan form that this District does not use. Debtor must use plan form EDC 003-080. Local Bankruptcy Rule 3015-1(a). Failure to file a plan on the current form is a delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

23. [24-21762-E-13](#)  
[DPC-1](#)

LINDA CATRON  
Peter Macaluso

**MOTION TO DISMISS CASE**  
**10-29-24 [59]**

**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.

**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)(C).**

-----  
Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 29, 2024. By the court’s calculation, 15 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<b>The Motion to Dismiss is granted, and the case is dismissed.</b>
---

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Linda Catron (“Debtor”), has failed to provide required documents, including proof of social security or photo identification, no

proof of income listed on Schedule I, and no federal tax return. Obj. 1:25-2:2, Docket 59.

2. Debtor has failed to file a Motion to Confirm for the Chapter 13 Plan filed on July 10, 2024. *Id.* at 2:3-5.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 61.

## **DISCUSSION**

### **Failure to Provide Social Security Number**

Debtor has not provided Trustee with proof of a Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Tax Returns**

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Moreover, Debtor has not submitted proof of income. At the hearing, **XXXXXXX**

### **Never Moved to Confirm the Plan**

Debtor did not file a motion to confirm the Plan. The Plan was filed after the notice of the Meeting of Creditors was issued. Therefore, Debtor must file a motion to confirm the Plan. *See* LOCAL BANKR. R. 3015-1(c)(3). A review of the docket shows that no such motion has been filed. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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:** 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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on September 17, 2024. By the court's calculation, 57 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <del>denied without prejudice.</del></b>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kahtie Lee Fisher ("Debtor"), is delinquent \$3,278.20 in plan payments. Debtor will need to have paid \$8,174.20 to become current by the hearing date. Mot. 1:19-22, Docket 31.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 33.

## **DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration and Exhibits on October 30, 2024. Dockets 35-37. Debtor states the delinquency will be cured prior to the hearing date, and Debtor requests a continuance of the Motion to give time for payments to clear.

## **DISCUSSION**

### **Delinquent**

In confirming whether Debtor has cured the delinquency, at the hearing, **XXXXXXX**

The court shall issue an 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, David Cusick (“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 denied without prejudice.~~

25. [24-22068](#)-E-13      **ALYN OJANPERA GRAYSON/**      **MOTION TO DISMISS CASE**  
[DPC-2](#)      **EDWARD GRAYSON**      **9-11-24 [37]**  
                         **James Keenan**

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 11, 2024. By the court’s calculation, 63 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

**The Motion to Dismiss is ~~XXXXXXX~~.**

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Alyn Marie Ojanpera Grayson and Edward Allen Grayson (“Debtor”), failed to appear at the First Meeting of Creditors held on June 27, 2024. Mot. 1:26-2:3, Docket 37.
2. Trustee objected to confirmation of the Debtors’ original Plan, which was sustained at hearing on August 6, 2024. The Debtors have failed to file an amended Plan and set a hearing for confirmation. *Id.* at 2:4-7.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 39.

**DEBTOR’S RESPONSE**



Debtor filed a Response on October 30, 2024. Docket 41. Debtor states they appeared at the continued 341 Meeting held on October 10, 2024, and Debtor is amending the Plan which will be set for confirmation on December 17, 2024.

## **DISCUSSION**

A review of the Docket shows Debtor appeared at the 341 Meeting, resolving this objection of Trustee. However, Debtor has yet to file an Amended Plan, which is prejudicial delay to creditors. 11 U.S.C. § 1307(c).

At the hearing, **XXXXXXX**

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on September 17, 2024. By the court's calculation, 57 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span>.</b>
---

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Sonda L. Charlton ("Debtor"), is delinquent \$2,242.74 in plan payments. Debtor will need to have paid \$6,656.76 to become current by the hearing date. Mot. 1:19-22, Docket 82.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 107.

## DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on October 29, 2024. Dockets 109, 110. Debtor states the delinquency will be cured prior to the hearing date.

## DISCUSSION

### Delinquent

Debtor is \$2,242.74 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

In confirming if Debtor has become current, at the hearing, XXXXXXX

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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 **XXXXXXX**.

27. [24-23775-E-13](#)

**TOMAS GARCIA**  
**Peter Macaluso**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-30-24 [\[23\]](#)**

**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, then 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 Debtor, Debtor’s Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 1, 2024. The court computes that 43 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 due on September 25, 2024.

<b>The Order to Show Cause is sustained, and the case is dismissed.</b>
---

The court’s docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$79.

The court shall issue an 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.

28. [24-23181-E-13](#)      **MICHAEL/ANGELIQUE VALERA**      **MOTION TO DISMISS CASE**  
[DPC-1](#)      **Peter Macaluso**      **10-28-24 [42]**

Item 28 thru 29

**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.

**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)(C).**

-----  
Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 29, 2024. By the court’s calculation, 15 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<b>The Motion to Dismiss is <span style="color: red;">XXXXXXX</span>.</b>
---

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Michael Anthony Valera and Angelique Marie Valera (“Debtor”), is delinquent \$13,300.00 in plan payments. Mot. 1:26-2:2, Docket 42.
2. The California Franchise Tax Board objected to confirmation of the Debtor’s original Plan, which was sustained at hearing on September 24,

2024. The Debtors have failed to file an amended Plan and set a hearing for confirmation. *Id.* at 2:3-6.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 44.

## **DEBTOR'S RESPONSE**

Debtor filed a Response on November 5, 2024. Docket 44. Debtor states there is a new Plan on file and set for hearing for December 10, 2024.

## **DISCUSSION**

### **Delinquent**

Debtor is \$13,300.00 delinquent in plan payments, which represents multiple months of the \$6,650 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Plan and Motion to Confirm Filed**

Debtor has filed a First Amended Plan (Dckt. 31) and Motion to Confirm (Dckt. 47). From the court's preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 50) states personal knowledge testimony in support of the Motion to Confirm.

~~Given Debtor's active prosecution of confirmation of a Plan, the Motion is denied without prejudice.~~

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, David Cusick ("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 ~~denied without prejudice.~~

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 26, 2024. The court computes that 18 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: \$78 due on October 21, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

**Tentative Ruling:** 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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on October 16, 2024. By the court's calculation, 28 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

**The Motion to Dismiss is XXXXXXX.**

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kimberly Joan Green ("Debtor"), is delinquent \$457.00 in plan payments. Mot. 1:23-2:2, Docket 28.
2. Trustee objected to confirmation of the Debtor's original Plan, which was sustained at hearing on July 16, 2024. The Debtor has failed to file an amended Plan and set for confirmation. *Id.* at 2:3-6.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 30.

## DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on October 24, 2024. Dockets 39, 40. Debtor states she experienced a decrease in income, and she has since filed an Amended Plan to address this.

## DISCUSSION

### Delinquent

Debtor is \$457.00 delinquent in plan payments, which represents less than a month of the \$1,750.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Debtor has stated a reason for the delinquency and has offered an Amended Plan, Motion to Confirm, and supporting evidence. Dockets 32-38.

### **Plan and Motion to Confirm Filed**

Debtor has filed an Amended Plan (Dckt. 36) and Motion to Confirm (Dckt. 32). From the court's preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 34) states personal knowledge testimony in support of the Motion to Confirm.

At the hearing, **XXXXXXX**

~~Given Debtor's active prosecution of confirmation of a Plan, the Motion is denied without prejudice.~~

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, David Cusick ("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 ~~denied without prejudice.~~



**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, then 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 Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on October 16, 2024. The court computes that 28 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: \$78 due on October 7, 2024.

<b>The Order to Show Cause is sustained, and the case is dismissed.</b>
---

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

**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.

**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)(C).**

-----

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient 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 October 29, 2024. By the court’s calculation, 15 days’ notice was provided. 14 days’ notice is required.

The Motion to Dismiss was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 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 offer 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. At the hearing -----.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Allison Marie Hingst Elo (“Debtor”), is delinquent \$11,304.45 in plan payments. Debtor will need to have paid \$11,304.45 to become current by the hearing date. Mot. 1:24-2:3, Docket 38.
2. Trustee, and Lakeview Loan Servicing, both objected to confirmation of the Debtor’s original Plan and both objections were sustained at the hearings on September 24, 2024. The Debtor has failed to file an amended Plan and set it for confirmation. *Id.* at 2:4-7.
3. Debtor has improperly claimed exemptions on her Schedule C, including by not including a specific amount as exempt, and by not citing to applicable law.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 40.

## **DISCUSSION**

### **Delinquent**

Debtor is \$11,304.45 delinquent in plan payments, which represents multiple months of the \$3,768.15 plan payment. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Moreover, Debtor has improperly attempted to claim exemptions on her Schedule C. Docket 1 at 22. Debtor must include a specific amount as exempt and cite to the specific code section under which the exemption is claimed.

### **Prior Plan Denied, No New Plan**

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 27, 2024. Dockets 24, 25. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick ("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:** 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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on October 16, 2024. By the court’s calculation, 28 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<p><b>The Motion to Dismiss is denied without prejudice.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Jon Wesley Fenton (“Debtor”), has failed to file a second amended Plan and set a hearing for confirmation after the court denied confirmation of he previous Plan on July 2, 2024. Mot. 1:23-26, Docket 100.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 102.

## **DEBTOR’S RESPONSE**

Debtor filed a Response on October 30, 2024. Docket 117. Debtor states he has filed an Amended Plan and Motion to Confirm in response to this Motion.

## **DISCUSSION**

### **Plan and Motion to Confirm Filed**

Debtor has filed a Second Amended Plan (Dckt. 108) and Motion to Confirm (Dckt. 106). From the court’s preliminary review, it appears that the Motion states grounds with particularity upon which relief is based and that the Declaration in support (Dckt. 109) states personal knowledge testimony in support of

the Motion to Confirm (in addition to the Debtor providing his legal opinion, testifying that his plan complies with the Bankruptcy Code).

At the hearing, **XXXXXXX**

~~Given Debtor's active prosecution of confirmation of a Plan, the Motion is denied without prejudice.~~

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, David Cusick ("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 ~~denied without prejudice.~~

34. [24-21091-E-13](#)  
[DPC-2](#)

**KIANA ZAMORA**  
**Joshua Sternberg**

**CONTINUED MOTION TO DISMISS  
CASE  
8-7-24 [29]**

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on August 7, 2024. By the court's calculation, 42 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

<b>The Motion to Dismiss is granted, and the case is dismissed.</b>
---

**November 13, 2024 Hearing**

The court continued the hearing on this Motion to a date after Debtor's Motion to Confirm. The Motion to Confirm was denied by this court's Order. Docket 55. Trustee filed a Status Report on October 29, 2024. Docket 56. Trustee recommends dismissal, noting the delinquency in this case has been cured, but there is still no confirmed Plan in the case that is now almost seven months old.

At the hearing, **XXXXXXX**

### **REVIEW OF MOTION**

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kiana Calica Zamora ("Debtor"), is delinquent \$872.20 in plan payments. Mot. 1:23-25, Docket 29.
2. Trustee objected to confirmation of the Debtor's original Plan, which was sustained at hearing on May 21, 2024, (Docket 24). The Debtor filed an Amended Plan on May 17, 2024 (Docket 20) but has failed to set it for a hearing for confirmation.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 31.

### **DEBTOR'S RESPONSE**

Debtor filed a Response on September 4, 2024. Docket 39. Debtor acknowledges the delay in setting the Amended Plan for a confirmation hearing and takes full responsibility for this oversight. However, Debtor is in the process of filing a new Amended Plan that will address the Trustee's concerns, including any delinquent payments and restructuring to better align with the case requirements. Resp. 2:1-11, Docket 39.

### **DISCUSSION**

#### **Delinquent**

Debtor is \$872.20 delinquent in plan payments, which represents less than a month of the \$1,508.93 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

#### **Prior Plan Denied, No Motion to Confirm the Amended Plan**

Debtor did not file a Motion to Confirm the most recently filed Amended Plan, nor did Debtor file any evidence in support of confirmation. Am. Plan, Docket 37. Debtor has noticed the hearing on that confirmation for October 8, 2024. Docket 40. No Motion to Confirm is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

As noted above, though no Motion to Confirm has been filed, the Debtor has filed a Notice of Hearing on Second Amended Chapter 13 Plan, which is set for October 8, 2024. The Notice states that Opposition must be filed and served at least fourteen days prior to October 8, 2024 – which would be

September 24, 2024. Assuming the Notice was served on September 9, 2024, that allows only fourteen days notice of filing an opposition, and only twenty-nine days notice of the hearing.

Federal Rule of Bankruptcy Procedure 2002(a)(9) requires that at least 21 days notice must be given for filing objections to confirmation of a Chapter 13 Plan and Rule 2002(b) requires that at least 28 days notice be given of hearings to consider confirmation of a Chapter 13 Plan.

Under the Local Bankruptcy Rule 3015-1(c)(3), when a Plan is not timely filed within fourteen days of filing the bankruptcy petition, the Debtor must then prosecute confirmation of a Plan through a noticed motion as provided in L.B.R. 3015(d)(1). As provided in Local Bankruptcy Rule 3015-1(d)(1) specified that twenty-one days notice must be provided for the filing of oppositions to the Motion to confirm, and that such oppositions must be filed at least fourteen days before the confirmation hearing date. This requires at least thirty-five (35) days notice.

Though having stumbled over the Local Rules and not filing a Motion to Confirm the Amended Chapter 13 Plan, it does appear that Debtor and Debtor's counsel are working to prosecute this case.

At the hearing, the Trustee reported that the delinquency has been cured and concurred with the hearing on Motion to Dismiss being continued to 9:00 a.m. on November 13, 2024.

The court shall issue an 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, David Cusick ("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 Motion to Dismiss is granted, and the case is dismissed.

**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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (pro se) and Office of the United States Trustee on October 16, 2024. By the court's calculation, 28 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). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Merrilee Rose Zerrougui ("Debtor"), is delinquent \$8,884.64 in plan payments. Debtor will need to have paid \$11,105.80 to become current by the hearing date. Mot. 1:23-28, Docket 34.
2. Trustee objected to confirmation of the Debtor's original Plan, which was sustained at hearing on August 20, 2024. The Debtor has failed to file an amended Plan and set for confirmation. *Id.* at 2:1-3.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 36.

## **DISCUSSION**

### **Delinquent**

Debtor is \$8,884.64 delinquent in plan payments, which represents multiple months of the \$2,221.16 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Prior Plan Denied, No New Plan**

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 August 20, 2024. A review of the docket shows that Debtor has not



yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

36. <a href="#">24-23694-E-13</a> <a href="#">DPC-2</a>	<b>JOHN RADULOVICH</b> Pro Se	<b>MOTION TO DISMISS CASE</b> <b>10-11-24 [30]</b>
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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.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on October 11, 2024. By the court’s calculation, 33 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). Debtor (*pro se*) has not filed opposition. If the *pro se* Debtor appears at the hearing, the court shall consider the arguments presented and determine if further proceedings for this Motion are appropriate.

<b>The Motion to Dismiss is granted, and the case is dismissed.</b>
---

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, John M. Radulovich (“Debtor”), is delinquent \$3,000.00 in plan payments. Mot. 2:1-7, Docket 30.
2. Debtor failed to appear and be examined at the First Meeting of Creditors held on October 3, 2024. *Id.* at 1:22-25.
3. Debtor has failed to provide proof of photo identification and Social Security number before the First Meeting of Creditors as required pursuant to FRBP 4002(b)(1)(B).
4. Debtor failed to provide 11 U.S.C. § 521 documents, including 60 days of employer payment advices and a tax transcript or copy of his federal tax return. *Id.* at 2:9-18.

Trustee submitted the Declaration of Teryl Wegemer to authenticate the facts alleged in the Motion. Decl., Docket 32.

## **DISCUSSION**

### **Delinquent**

Debtor is \$3,000.00 delinquent in plan payments, which represents one month of the \$3,000.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failed to Appear at § 341 Meeting of Creditors**

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

### **Failure to Provide Tax Returns**

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Pay Advices**

Debtor has not provided Trustee with employer payment advices for the period of sixty days preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Social Security Number**

Debtor has not provided Trustee with proof of a Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

# FINAL RULINGS

37. [19-26003-E-13](#)  
[DPC-3](#)

MAY/HAI TRUONG  
Peter Cianchetta

MOTION TO DISMISS CASE  
9-17-24 [\[33\]](#)

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 43), **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 11, 2024. By the court’s calculation, 62 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Vernon Lee Davis (“Debtor”), is delinquent \$2,301.57 in plan payments. Debtor will need to have paid \$4,654.07 to become current by the hearing date. Mot. 1:19-22, Docket 50.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 52.

## DISCUSSION

### Delinquent

Debtor is \$2,301.57 delinquent in plan payments, which represents multiple months of the \$1,176.25 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

39. <a href="#">21-23606-E-13</a>	STACEY VANNUCCI	MOTION TO DISMISS CASE
<a href="#">DPC-2</a>	Mik Liviakis	9-16-24 <a href="#">[76]</a>

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

<p><b>The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an *Ex Parte* Motion to Dismiss the pending Motion on November 6, 2024, Docket 86; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Stacey Anne Vannucci (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014

and 7041, Docket 86, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee's Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

40. [23-23608-E-13](#)  
[DPC-2](#)

**TEMA ROBINSON**  
**Peter Macaluso**

**MOTION TO DISMISS CASE**  
**9-6-24 [121]**

**Final Ruling: No appearance at the November 13, 2024 Hearing is required.**

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Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient 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 October 4, 2024. By the court's calculation, 40 days' notice was provided. 14 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). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

**The hearing on the Motion to Dismiss is continued to 2:00 p.m. on November 19, 2024, to be conducted in conjunction with the hearing on the Motion to Confirm the Fourth Amended Plan.**

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Tema Kay Robinson ("Debtor"), is delinquent \$700 in plan payments. Docket 121.
2. Debtor's Motion to Confirm a third amended Plan was denied by the Court on July 16, 2024, (DN 120). Debtor has failed to file a fourth amended Plan and set a hearing for confirmation. *Id.* at 2:3-6.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 123.

**DEBTOR'S RESPONSE**

Debtor filed a Response and supporting Declaration on October 30, 2024. Dockets 133, 134. Debtor states she has set for hearing the confirmation of a fourth Amended Plan for November 19, 2024.

## **DISCUSSION**

### **Delinquent**

Debtor is \$700 delinquent in plan payments, which represents multiple months of the \$350 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Fourth Amended Chapter 13 Plan**

Debtor has filed a Fourth Amended Plan and supporting evidence. Dockets 125-132. The Motion (Dckt. 125) appears to state grounds with particularity, and Debtor's Declaration (Dckt. 127) appears to provide personal knowledge factual testimony (but also her legal opinion that she believes her Plan complies with the Bankruptcy Code).

The Chapter 13 Trustee has filed an Opposition to confirmation of the Fourth Amended Plan, stating that the Debtor is delinquent one payment of \$420.00. Dckt. 141.

The hearing on the Motion to Dismiss is continued to 2:00 p.m. on November 19, 2024, to be conducted in conjunction with the hearing on the Motion to Confirm the Fourth Amended Plan.

The court shall issue an 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, David Cusick ("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 19, 2024**, to be conducted in conjunction with the hearing on the Motion to Confirm the Fourth Amended Plan.



**Final Ruling: No appearance at the November 13, 2024 Hearing is required.**

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on September 14, 2024. The court computes that 60 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: \$313 due on August 30, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

**DEBTOR DISMISSED: 09/20/24****Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on September 5, 2024. The court computes that 69 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay a filing fee installment.

<b>The Order to Show Cause is discharged as moot.</b>
---

The court having dismissed this bankruptcy case by prior order filed on September 20, 2024 (Docket 32), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 29, 2024. The court computes that 15 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 due on October 23, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 8, 2024. The court computes that 36 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: \$78 due on September 30, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

DEBTOR DISMISSED: 10/04/24

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on October 2, 2024. The court computes that 42 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to the Chapter 13 petition filing fee.

<b>The Order to Show Cause is discharged as moot.</b>
---

The court having dismissed this bankruptcy case by prior order filed on October 4, 2024 (Docket 18), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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.

46. [20-20734](#)-E-13  
[DPC-3](#)

CHRISTINE CONRAD  
Jeffrey Ogilvie

MOTION TO DISMISS CASE  
9-16-24 [[60](#)]

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 64), **the Motion to Dismiss the Bankruptcy Case was denied without prejudice, and the matter is removed from the calendar.**

47. [24-21440](#)-E-13  
[DPC-3](#)

ERIKA NORMAN  
Peter Macaluso

MOTION TO DISMISS CASE  
9-9-24 [[107](#)]

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

**The Motion to Dismiss is denied without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an *Ex Parte* Motion to Dismiss the pending Motion on November 6, 2024, Docket 143; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Erika Lizeth Norman (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014

and 7041, Docket 143, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee's Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the Bankruptcy Case shall proceed in this court.

48. [24-24142-E-13](#)

**LOLA ENSLEY**  
**Pro Se**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**10-1-24 [\[16\]](#)**

**DEBTOR DISMISSED: 10/07/24**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on October 2, 2024. The court computes that 42 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the Chapter 13 filing fee.

<p><b>The Order to Show Cause is discharged as moot.</b></p>
--

The court having dismissed this bankruptcy case by prior order filed on October 7, 2024 (Docket 18), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on November 6, 2024, Docket 29; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Bryan Chandra Latchman and Basant Chandra Latchman (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 29, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.



**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on October 29, 2024, Docket 32; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by AnnMarie Bitetto (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 32, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on November 6, 2024, Docket 52; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Efren Olivan and Elena Olivan (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 51, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee’s Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 17, 2024. By the court’s calculation, 57 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Earl Moore (“Debtor”), is delinquent \$11,429.22 in plan payments. Debtor will need to have paid \$22,858.44 to become current by the hearing date. Mot. 1:19-22, Docket 29.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 31.

## DISCUSSION

### Delinquent

Debtor is \$11,429.22 delinquent in plan payments, which represents multiple months of the \$5,714.61 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

53. [24-24253](#)-E-13

**ROGER MCFADDEN**  
**Pro Se**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
10-8-24 [\[13\]](#)**

**DEBTOR DISMISSED: 10/15/24**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 13 Trustee as stated on the Certificate of Service on October 9, 2024. The court computes that 35 days’ notice has been provided.

The court issued an Order to Show Cause based on Debtor’s failure to pay the Chapter 13 filing fee.

<p><b>The Order to Show Cause is discharged as moot.</b></p>
--

The court having dismissed this bankruptcy case by prior order filed on October 15, 2024 (Docket 15), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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.

54. [19-22954](#)-E-13      **DAVID/NICOLE WILLS**      **MOTION TO DISMISS CASE**  
[DPC-5](#)      **David Foyil**      **9-16-24 [96]**

**WITHDRAWN BY M.P.**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Chapter 13 Trustee, David Cusick (“Trustee”) having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041 (Docket 102), **the Motion to Dismiss the Bankruptcy Case was dismissed without prejudice, and the matter is removed from the calendar.**

55. [20-20656](#)-E-13      **MICHAEL KENNEDY**      **MOTION TO DISMISS CASE**  
[DPC-5](#)      **Gerald B. Glazer**      **9-17-24 [80]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
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**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on Date of Withdrawal, Docket 89; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Michael Edward Nelson Kennedy (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter

13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 89, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee's Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.

56. [23-24256-E-13](#)  
[DPC-1](#)

**ROBERT COLLA**  
**Peter Macaluso**

**MOTION TO DISMISS CASE**  
**10-4-24 [29]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, parties requesting special notice, and Office of the United States Trustee on October 4, 2024. By the court's calculation, 40 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Robert Michael Colla ("Debtor"), is delinquent \$800.00 in plan payments. Debtor will need to have paid \$1,200.00 to become current by the hearing date. Mot. 1:19-22, Docket 29.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 31.

## **DISCUSSION**

### **Delinquent**

Debtor is \$800.00 delinquent in plan payments, which represents multiple months of the \$400.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on September 5, 2024. The court computes that 69 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: \$78 due on August 27, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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



CASE CONVERTED 09/13/24

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on September 12, 2024. The court computes that 62 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay a filing fee installment under a Chapter 13 case.

<p><b>The Order to Show Cause is discharged as moot.</b></p>
--

The Debtor having converted this bankruptcy case to one under Chapter 7 on September 13, 2024 (Docket 39), the Order to Show Cause is discharged as moot, with no sanctions ordered.

The court shall issue an 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.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 16, 2024. The court computes that 28 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: \$34 due on October 1, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 17, 2024. By the court’s calculation, 57 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Teresa De Jesus Giner (“Debtor”), is delinquent \$950.00 in plan payments. Debtor will need to have paid \$2,850 to become current by the hearing date. Mot. 1:19-22, Docket 22.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 24.

## **DISCUSSION**

### **Delinquent**

Debtor is \$950.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

61. <a href="#"><u>23-21490-E-7</u></a>	<b>PATRICIA ALSOBROOK</b>	<b>MOTION TO DISMISS CASE</b>
<a href="#"><u>DPC-1</u></a>	<b>Mary Ellen Terranella</b>	<b>9-17-24 <a href="#"><u>[19]</u></a></b>

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 17, 2024. By the court’s calculation, 57 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is denied without prejudice as moot, the Chapter 13 Case having been converted to one under Chapter 7 when Debtor filed her Notice of Conversion on October 31, 2024. Docket 30.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks to dismiss Patricia Joann Alsobrook’s (“Debtor”) Chapter 13 case. Debtor filed a Notice of Conversion on October 31, 2024, however, converting the case to a proceeding under Chapter 7. Dckt. 30. Debtor may convert a Chapter 13 case to a Chapter 7 case at any time. 11 U.S.C. § 1307(a). The right is nearly absolute, and the conversion is automatic and immediate. FED. R. BANKR. P. 1017(f)(3); *In re Bullock*, 41 B.R. 637, 638 (Bankr. E.D. Penn. 1984); *In re McFadden*, 37 B.R. 520, 521 (Bankr. M.D. Penn. 1984). Debtor’s case was converted to a proceeding under Chapter 7 by operation of law once the Notice of Conversion was filed on October 31, 2024. *McFadden*, 37 B.R. at 521.

The court shall issue an 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, David Cusick (“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 denied without prejudice as moot.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 11, 2024. By the court’s calculation, 63 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Tazmin Sabina Godamunne (“Debtor”), is delinquent \$11,034.00 in plan payments. Mot. 1:23-2:2, Docket 58.
2. Per the Court Order issued on July 2, 2024, the confirmation of Debtor’s Plan filed on May 29, 2024, was denied. The Court further ordered the Debtor to file an amended plan and motion to confirm. To date, the Debtor has not filed an amended plan and set a hearing for confirmation of the amended plan. *Id.* at 2:3-7.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 60.

Debtor filed a Nonopposition on November 5, 2024. Docket 62.

## **DISCUSSION**

### **Delinquent**

Debtor is \$11,034.00 delinquent in plan payments, which represents multiple months of the \$5,517.00 plan payment. Before the hearing, another plan payment will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

**Prior Plan Denied, No New Plan**

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 May 29, 2024. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick ("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.

63. [24-22891](#)-E-13

**LAURA ENGLAND**  
**Michael Benavides**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES**  
**10-4-24 [\[48\]](#)**

Item 63 thru 65

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 5, 2024. The court computes that 39 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: \$78 due on September 30, 2024.

<b>The Order to Show Cause is sustained, and the case is dismissed.</b>
---

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$78.

The court shall issue an 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.

64. [24-22891](#)-E-13

**LAURA ENGLAND**  
**Michael Benavides**

**ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
9-4-24 [31]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on September 5, 2024. The court computes that 69 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: \$77 due on August 30, 2024.

<b>The Order to Show Cause is sustained, and the case is dismissed.</b>
---

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: \$77.

The court shall issue an 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.

65. [24-22891](#)-E-13  
[DPC-2](#)

**LAURA ENGLAND**  
**Michael Benavides**

**MOTION TO DISMISS CASE**  
**9-24-24 [41]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
-----

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 24, 2024. By the court’s calculation, 50 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
--

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Laura Elizabeth England (“Debtor”), is delinquent \$50.19 in plan payments. Mot. 1:21-27, Docket 41.
2. Did not present proof of identification or social security number verification at the 341 Meeting. Debtor then failed to appear at the continued 341 Meeting held on September 12, 2024. *Id.* at 2:1-10.
3. Debtor has failed to provide the Trustee with a tax transcript or a copy of her Federal Income Tax Return 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. *Id.* at 2:11-16.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 43.

## **DISCUSSION**

### **Delinquent**

Debtor is \$50.19 delinquent in plan payments, which represents only a minor portion of the \$3,816.19 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failed to Appear at § 341 Meeting of Creditors**

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

### **Failure to Provide Tax Returns**

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

### **Failure to Provide Social Security Number**

Debtor has not provided Trustee with proof of a Social Security Number. *See* 11 U.S.C. § 521(h)(2). That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, and Chapter 13 Trustee as stated on the Certificate of Service on October 12, 2024. The court computes that 32 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 due on October 7, 2024.

**The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.**

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

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

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

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

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

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, parties requesting special notice, and Office of the United States Trustee on September 16, 2024. By the court’s calculation, 58 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). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). 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.

<p><b>The Motion to Dismiss is granted, and the case is dismissed.</b></p>
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The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, Andre Saint-Louis (“Debtor”), is delinquent \$1,018.00 in plan payments. Debtor will need to have paid \$2,036.00 to become current by the hearing date. Mot. 1:19-22, Docket 73.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 75.

## **DISCUSSION**

### **Delinquent**

Debtor is \$1,018.00 delinquent in plan payments, which represents multiple months of the \$509.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.

The court shall issue an 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, David Cusick (“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.

68. [23-21697](#)-E-13  
[DPC-1](#)

NICHELLE LACEWELL  
Gabriel Liberman

**MOTION TO DISMISS CASE**  
**10-10-24 [19]**

**Final Ruling:** No appearance at the November 13, 2024 Hearing is required.  
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**The Motion to Dismiss is dismissed without prejudice, and the bankruptcy case shall proceed in this court.**

The Chapter 13 Trustee, David Cusick (“Trustee”), having filed an Ex Parte Motion to Dismiss the pending Motion on November 6, 2024, Docket 26; no prejudice to the responding party appearing by the dismissal of the Motion; the Chapter 13 Trustee having the right to request dismissal of the motion pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by Nichelle Imogene Lacewell (“Debtor”); the Ex Parte Motion is granted, the Chapter 13 Trustee’s Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

The court shall issue an 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, David Cusick (“Trustee”) having been presented to the court, the Chapter 13 Trustee having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Docket 26, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Chapter 13 Trustee's Motion to Dismiss the Chapter 13 Case is denied without prejudice, and the bankruptcy case shall proceed in this court.