

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: November 26, 2024

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

November 26, 2024 at 1:00 p.m.

1. [24-22700](#)-B-13 NATALIE PELTON MOTION TO DISMISS CASE
[LGT](#)-2 Richard L. Jare 10-2-24 [[60](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

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

The Chapter 13 Trustee moves to dismiss the case on grounds that the Debtor failed to confirm a plan. This is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c).

Debtor filed an opposition stating that an amended plan was filed on October 8, 2024, and which was confirmed on November 19, 2024. This resolves the issue to dismiss case at this time.

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

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

November 26, 2024 at 1:00 p.m.

2. [24-22920](#)-B-13 HARDEEP SINGH
[LGT](#)-1 David C. Johnston

MOTION TO DISMISS CASE
10-4-24 [[19](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to convert this case to one under chapter 7.

Debtor failed to set a plan for hearing with notice to creditors. This is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

A review of Debtor's schedules shows that there is non-exempt equity that may be available for the benefit of unsecured creditors. Therefore, conversion rather than dismissal is in the best interest of creditors of the estate.

Cause exists to convert this case. The motion granted and the case will be converted.

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

The court will issue an order.

3. [24-22621](#)-B-13 SHAYLA JARRAYL BARNES MOTION TO DISMISS CASE
 [LGT](#)-1 Peter G. Macaluso 10-28-24 [[43](#)]

Final Ruling

The Chapter 13 Trustee filed a motion to dismiss its pending motion, and it is consistent with the Debtor's opposition filed to the motion. The motion is therefore dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rule of Bankruptcy Procedure 9014 and 7041. The case will proceed in this court.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

4. [24-23527](#)-B-13 PAMELA MCGAUGHY
Thomas L. Amberg

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-15-24 [[19](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$78.00 installment when due on October 8, 2024. While the delinquent installment was paid on October 15, 2024, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

5. [24-23640](#)-B-13 RICARDO BENAVIDES
[LGT](#)-2 Pro Se

MOTION TO DISMISS CASE
10-7-24 [[25](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

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

First, Debtor failed to file a complete plan. Debtor's plan fails to provide a dividend for arrears owed to Class 1 creditor Ally Financial.

Second, Debtor failed to accurately file the following schedules and/or statements. 11 U.S.C § 521 and/or Fed. R. Bankr. P. 1007.

Third, Debtor failed to accurately disclose all income received six months prior to filing on Form 122C-1.

Fourth, Debtor is delinquent in the amount of \$600.00. In addition to the delinquency amount, Debtor must also make the monthly plan payment of \$600.00 for October 25, 2024, and \$600.00 for November 25, 2024. 11 U.S.C. § 1307(c)(4). This is an unreasonable delay by the Debtor that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

The court will issue an order.

6. [24-24043](#)-B-13 SALLY PERERS
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-16-24 [[25](#)]

DEBTOR DISMISSED: 10/24/24

Final Ruling

The case having been previously dismissed, the order to show cause is discharged as moot with no sanctions ordered.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the minutes.

The court will issue an order.

7. [24-22951](#)-B-13 NATHAN SWANN
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-11-24 [[36](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$78.00 due October 7, 2024. The court's docket reflects that the default was cured on November 8, 2024. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

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

First, Debtor failed to appear and testify at the initial 341 meeting of creditors on September 04, 2024, and three continued meetings of creditors held October 16, October 30, and November 13, 2024. Although the meeting of creditors was again continued to December 5, 2024, the court finds it unlikely that the Debtor will appear on that date given the Debtor's history of nonappearances. 11 U.S.C § 341 and/or F.R.B.P 4002.

Second, Debtor has failed to provide required documents to the Chapter 13 Trustee including pay advices, federal tax return, copy of original valid picture ID, proof of social security, Class 1 Checklist, evidence of payment to Class 1 claims, Domestic Support Obligation Checklist, any documents required by Form 122C-2, and any declaration of a third party who contributes to Debtor's monthly income if applicable.

Third, Debtor failed to accurately file Schedule J, Statement of Financial Affairs, and Form 122C-1.

Fourth, Debtor has failed to commence making plan payments under the plan. As of October 29, 2024, payments are delinquent in the amount of \$12,261.00. In addition to the delinquency amount, Debtor must also make the monthly plan payment of \$4,087.00 for November 25, 2024.

Cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

The court will issue an order.

9. [24-22791](#)-B-13 MARY BETH SCHAUER MOTION TO DISMISS CASE
 [LGT](#)-2 Charles L. Hastings 10-28-24 [[33](#)]

WITHDRAWN BY M.P.

Final Ruling

The Chapter 13 Trustee has filed a motion to withdraw its pending motion. The motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar and the case will proceed in this court.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

10. [24-23494](#)-B-13 KRISTINA LINCOLN
Eric L. Seyvertsen

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-15-24 [[19](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$78.00 due October 7, 2024. The court's docket reflects that the default was cured on October 21, 2024, and October 30, 2024. The latter payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

11. [24-24014](#)-B-13 SUSAN MUELLER
[LGT](#)-1 Julius J. Cherry

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
10-24-24 [[14](#)]

Final Ruling

Hearing continued to December 10, 2024, at 1:00 p.m. for purposes of a status conference on the Chapter 13 Trustee's objection to confirmation of Debtor's plan.

By December 3, 2024, Debtor and Chapter 13 Trustee shall file a joint status report that addresses whether *Saldana v. Bronitsky*, No. 23-15860 (<https://cdn.ca9.uscourts.gov/datastore/opinions/2024/11/22/23-15860.pdf>) decided by the Ninth Circuit Court of Appeals on November 22, 2024, and whether Debtor's offer to increase plan payments upon repayment of the Debtor's 401(k) loan through the confirmation order resolve or limit the scope of the Chapter 13 Trustee's objection(s). Debtor to prepare and file the status report. Debtor to also state whether the evidentiary hearing is necessary.

The court will issue an order.

12. [24-23845](#)-B-13 PAUL BENNETT AND MICHELE CONTINUED OBJECTION TO
[LGT](#)-1 PELTON-BENNETT CONFIRMATION OF PLAN BY LILIAN
Richard L. Jare G. TSANG
10-24-24 [[21](#)]

Final Ruling

This matter was continued from November 19, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, November 22, 2024. Debtors filed a response that clarifies or resolves the issues raised by the Chapter 13 Trustee.

Therefore, the court's conditional ruling at dkt. 24 and the continued hearing on November 26, 2024, at 1:00 p.m. are vacated. The objection to confirmation of plan is overruled and the plan is confirmed.

The objection is ORDERED OVERRULED for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

13. [24-23885](#)-B-13 GERARD CATAPANG CONTINUED OBJECTION TO
[LGT](#)-1 Charles L. Hastings CONFIRMATION OF PLAN BY LILIAN
G. TSANG
10-23-24 [[16](#)]

Final Ruling

This matter was continued from November 19, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, November 22, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 19, sustaining the objection, shall become the court's final decision. The continued hearing on November 26, 2024, at 1:00 p.m. is vacated.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.