

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: December 15, 2020

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
Modesto, California

December 15, 2020 at 1:00 p.m.

1. [17-90520](#)-B-13 DENNIS/SONYA GILBREATH MOTION TO DISMISS CASE
[RDG](#)-6 Richard L. Sturdevant 11-30-20 [[145](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Due to court closures in response to the COVID-19 pandemic, the court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to conditionally grant the motion to dismiss case and continue the matter to **January 5, 2021, at 1:00 p.m.**

Payments to Trustee are not current under the plan proposed by Debtors. As of November 30, 2020, plan payments under the plan are delinquent in the sum of \$6,089.96. The last payment was received on November 25, 2020. The Debtors' nonpayment of fees is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Additionally, the Debtors have filed multiple plans that have been denied confirmation. See dkts. 74, 99, 133. The Debtors' failure to perform is an unreasonable delay 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.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, December 18, 2020, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 5, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on January 5, 2021, at 1:00 p.m.

The court will issue an order.

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

The court will issue an order.

December 15, 2020 at 1:00 p.m.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Due to court closures in response to the COVID-19 pandemic, the court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due to the COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also 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).

The court's decision is to conditionally grant the motion to dismiss case and continue the matter to January 5, 2021, at 1:00 p.m.

Payments to Trustee are not current under the plan proposed by Debtors. As of December 1, 2020, plan payments under the plan are delinquent in the sum of \$17,400.00. The last payment was received on October 27, 2020. The Debtor's nonpayment of fees is an unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Additionally, the Debtor has filed five plans, all of which have been denied confirmation. See dkts. 32, 56, 74, 86, 97. The Debtor's failure to perform is an unreasonable delay 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.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, December 18, 2020, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 5, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on January 5, 2021, at 1:00 p.m.

The court will issue an order.

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

The court will issue an order.

3. [19-90571](#)-B-13 LATONA BOWERS CONTINUED OBJECTION TO NOTICE
 [LBF](#)-2 Lauren Franzella OF MORTGAGE PAYMENT CHANGE
 9-22-20 [[66](#)]

Objection continued to 1/05/2021 at 1:00 p.m. at Modesto Courtroom.

CONTINUED TO 1/05/2021 AT 1:00 P.M. PURSUANT TO THE STIPULATION FILED ON 12/07/2020,
DOCKET 74.