



3. 08-92506-A-13G JULIAN GOMEZ  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
12-10-08 [9]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 20, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on December 5. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was January 4, 2009. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on January 5, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

4. 08-92514-A-13G LUIS RIVERA AND  
RDG #1 MARIA CHAVEZ

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
12-15-08 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 21, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on December 6. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was January 5, 2009. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on January 6, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

5. 08-92416-A-13G BRENDA WILLIAMS  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
1-5-09 [14]

**Final Ruling:** The trustee has voluntarily dismissed the motion. The case shall remain pending.

6. 08-91817-A-13G JOSE FELIX AND HEARING - MOTION FOR  
RDG #4 ROSALINDA MUNOZ ORDER OF DISMISSAL  
1-6-09 [50]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$3,900 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Further, in an order dated January 7, the court denied confirmation of the proposed plan and the debtor has failed to file a modified plan together with a motion to confirm it. This failure suggests that the debtor does not intend to confirm a plan and this too is cause for dismissal.

7. 08-91618-A-13G ANSELMO/ANITA MONTES HEARING - MOTION FOR  
RDG #3 ORDER OF DISMISSAL  
1-6-09 [61]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$4,301 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

8. 08-91621-A-13G EDDIE/YVONNE HALL HEARING - MOTION FOR  
RDG #3 ORDER OF DISMISSAL  
1-6-09 [31]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$646.50 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

9. 08-92128-A-13G LEAH FRANKLIN HEARING - MOTION FOR  
RDG #2 ORDER OF DISMISSAL  
1-6-09 [21]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

This case was filed on October 6. The debtor proposed a plan within the time

required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The court's order denying confirmation was filed on December 29. The debtor thereafter failed to promptly propose a modified plan and set it for a confirmation hearing. This fact suggests to the court that the debtor either does not intend to confirm a plan or does not have the ability to do so. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(5).

10. 08-92638-A-13G CHARLES YOUNG HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
1-5-09 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

11 U.S.C. § 521(a)(1), Fed. R. Bankr. P. 1007(b) & (c), and Fed. R. Bankr. R. 3015(b) required that the debtor file schedules of assets and liabilities, a schedule of current income and expenditures, a schedule of executory contracts, a statement of current monthly income, and a proposed plan no later than 15 days after the filing of the petition. The 15-day period has expired without any of these documents being filed. By failing to timely file these documents, the debtor has delayed the prosecution of the case to the detriment of creditors. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

11. 08-92041-A-13G DONALD/CAROL DAVIS HEARING - MOTION FOR  
RDG #3 ORDER OF DISMISSAL  
1-6-09 [45]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$866.99 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

12. 08-92443-A-13G CONNIE BOTELHO HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
12-15-08 [21]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

While the debtor timely proposed a plan as required by Fed. R. Bankr. P. 3015(b), that plan required her to make no plan payment. A plan without a plan payment is not a plan. It is not proposed in good faith as required by 11 U.S.C. § 1325(a)(3).

After the trustee filed this motion, the debtor filed a modified plan. There are two problems. First, the debtor has failed to serve it together with a motion to confirm it, on the trustee and all creditors. Second, even if it were served, it is patently unconfirmable. It provides for an \$850 monthly

plan payment but requires the trustee to pay out a \$1,100 ongoing payment on account of the Class 1 secured claim of Wachovia Mortgage. Obviously, the trustee cannot pay \$1,100 with an \$850 payment from the debtor. This plan is not feasible. See 11 U.S.C. § 1325(a)(6).

Because the debtor has been unable to propose a confirmable plan despite the case having been on file since November 13, creditors have been unduly prejudiced. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

13. 08-92553-A-13G MANUEL/CARMEN INFANTE HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
12-22-08 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

This case was filed on November 25. Therefore, a proposed plan, schedules, and statements should have been filed no later than December 10. See Fed. R. Bankr. P. 1007(c) and Fed. R. Bankr. P. 3015(b). They were filed late on December 22. Because these documents were not filed timely by the debtor, the trustee was unable to serve the plan with the notice of commencement of case as required by General Order 05-03, ¶ 3(a)(1). This means that it is incumbent on the debtor to serve the proposed plan and a motion to confirm it on all parties in interest. See General Order 05-03, ¶¶ 3(a)(2) & 8(a). The debtor has failed to do so. This has delayed confirmation of a plan to the prejudice of creditors and is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

14. 08-92463-A-13G ANTHONY CARTER HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
12-12-08 [9]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 14, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on November 29. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was December 29. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on December 30, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

15. 08-92563-A-13G RICHARD/VALARIE COX  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
12-22-08 [9]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 26, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on December 11. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was January 10, 2009. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on January 11, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

16. 08-92567-A-13G SAMUEL MCINTOSH  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
12-15-08 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on November 26, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on December 11. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was January 10, 2009. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on January 11, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

17. 08-91873-A-13G SANDRA MCCREARY HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
12-10-08 [26]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$639 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

18. 08-92581-A-13G LISA COX HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
1-5-09 [9]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

This case was filed on December 1. Therefore, a proposed plan, schedules, and statements should have been filed no later than December 16. See Fed. R. Bankr. P. 1007(c) and Fed. R. Bankr. P. 3015(b). They were filed late on January 12. Because these documents were not filed timely by the debtor, the trustee was unable to serve the plan with the notice of commencement of case as required by General Order 05-03, ¶ 3(a)(1). This means that it is incumbent on the debtor to serve the proposed plan and a motion to confirm it on all parties in interest. See General Order 05-03, ¶¶ 3(a)(2) & 8(a). The debtor has failed to do so. This has delayed confirmation of a plan to the prejudice of creditors and is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

19. 08-92582-A-13G MICHELLE MCCOY HEARING - MOTION  
RDG #1 FOR ORDER OF DISMISSAL  
1-5-09 [18]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be denied and the case will remain pending.

This case was filed on December 1, 2008. Therefore, a proposed plan, schedules, and statements should have been filed no later than December 16. See Fed. R. Bankr. P. 1007(c) and Fed. R. Bankr. P. 3015(b). They were filed late on January 5, 2009. Because these documents were not filed timely by the debtor, the trustee was unable to serve the plan with the notice of commencement of case as required by General Order 05-03, ¶ 3(a)(1). This means that it is incumbent on the debtor to serve the proposed plan and a motion to confirm it on all parties in interest. See General Order 05-03, ¶¶ 3(a)(2) & 8(a). The debtor has done so and set a confirmation hearing on February 17.

20. 08-92490-A-13G FRANK SAHAY  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
1-6-09 [23]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to commence making plan payments to the trustee. This is cause for dismissal. See 11 U.S.C. § 1307(c)(4).

Further, the plan proposed by the debtor patently unconfirmable. It provides for no plan payment by the debtor to the trustee, but it requires the trustee to pay out dividends and expenses of \$3,611.30 each month. Obviously, the trustee cannot pay anything to creditors if there is no plan payment from the debtor. This plan is not feasible. See 11 U.S.C. § 1325(a)(6).

21. 08-92592-A-13G PARIS/GARY SCOTT  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
1-5-09 [25]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be dismissed as moot because the case was previously automatically dismissed.

The petition was filed on December 1, 2008. The debtor has not filed any schedules or statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on December 16. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45<sup>th</sup> day of a case, the case is automatically dismissed on the 46<sup>th</sup> day. See 11 U.S.C. § 521(i)(1). In this case, the 45<sup>th</sup> day was January 15, 2009. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on January 16, the petition was automatically dismissed.

Despite dismissing the trustee's motion as moot, the court will deem the motion to be a request by a party in interest for an order confirming the prior automatic dismissal of the petition. See 11 U.S.C. § 521(i)(2). The trustee shall lodge a proposed order.

22. 08-92695-A-13G JAMES/KATHLEEN SERPA  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
1-5-09 [11]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

A review of the proposed plan reveals that Select Portfolio Servicing holds a secured, long term claim that is provided for in Class 1 of the plan. There are pre-petition arrears on this claim that must be cured through the plan. The plan provides for this cure as well as the maintenance of post-petition contract installment payments by the trustee as permitted by 11 U.S.C. §

1322 (b) (5) .

General Order 05-03 provides at paragraph 3(a): *"The chapter 13 plan shall be completed and filed within 15 calendar days of the filing of the petition as required by FRBP 3015(b) and Local Bankruptcy Rule 3015-1(a). The debtor or the debtor's attorney shall serve the chapter 13 plan, all motions to value collateral, and all motions to avoid liens, as well as the statement of financial affairs and the schedules on the Trustee. These documents, together with the Domestic Support Obligation Checklist, Exhibit 3, and the Class 1 Claim Checklist and Authorization to Release Information required by subparagraph 5(c)(2) below, must be received by the Trustee no later than 15 calendar days after the filing of the petition."*

At paragraph 5(c)(2), the General Order provides: *"To assist the Trustee in making post-petition contract installment payments to Class 1 claim holders, the debtor shall complete the Class 1 Checklist and Authorization to Release Information, Exhibit 5, and deliver it to the Trustee within 15 calendar days of filing the petition. This document shall not be filed with the court."*

The debtor in this case has not given the trustee a checklist for the Class 1 secured claim held by Select Portfolio Servicing. This has delayed payment to this creditor to its prejudice. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

23. 08-91498-A-13G KERRI QUAGLINO  
RDG #2

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
1-6-09 [49]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be dismissed.

The debtor has failed to pay to the trustee approximately \$3,453.28 as required by the proposed plan. The foregoing has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Further, at a hearing on December 8, the court denied confirmation of the proposed plan and the debtor has failed to file a modified plan together with a motion to confirm it. This failure suggests that the debtor does not intend to confirm a plan and this too is cause for dismissal.