

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus

Bankruptcy Judge

Sacramento, California

May 4, 2009 at 9:30 a.m.

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1. 09-24702-A-13G MARLENE GONZALEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [19]

- 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).

2. 09-26702-A-13G LILIA BOSCH HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [16]

- 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).

3. 09-21305-A-13G GWEN/MARVIN MATTHEWS HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
4-10-09 [24]

Final Ruling: The motion will be dismissed because it is moot. The case was previously ordered dismissed.

May 4, 2009 at 9:30 a.m.

4. 09-23207-A-13G AMOR SANTIAGO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-26-09 [20]

- Telephone Appearance
- Trustee Agrees with Ruling

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

The debtor has utilized an outdated version of the court's standard plan. The debtor has used the pre-BAPCPA plan. General Order 05-03 requires use of the post-BAPCPA plan.

5. 08-38011-A-13G MICHAEL HOPKINS HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
4-7-09 [40]

- 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 \$3,119 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).

Also, the debtor agreed with the trustee to propose a modified plan rather than seek confirmation of the plan initially proposed by the debtor. The debtor then failed to promptly file and serve a modified plan and a motion to confirm it. The failure to abide by the agreement with the trustee and to confirm a plan has caused delay that is prejudicial to creditors. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1), (c)(3) & (c)(4).

6. 09-22611-A-13G JAMES MCCARREN HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-31-09 [13]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed because it is moot.

The petition was filed on February 17. 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 March 4. See Fed. R. Bankr. P. 1007(c). The court extended this deadline to March 11 at the request of the debtor.

Further, when schedules and statements are not filed by the 45th day of a case, the case is automatically dismissed on the 46th day. See 11 U.S.C. § 521(i)(1). In this case, the 45th day was April 3. The schedules and statements were not filed on or before the 45th day. Thus, on April 4, 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.

7. 09-25313-A-13G ROBERTO BONILLA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [12]
- 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).

8. 09-21016-A-13G EDDIE ESTAVILLO HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
4-10-09 [26]
- Telephone Appearance
 - Trustee Agrees with Ruling

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

First, the debtor has failed to pay to the trustee approximately \$849.50 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).

Second, according to the proposed plan, the debtor owes a domestic support obligation. General Order 05-03, ¶ 3(a) provides:

"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."

The debtor failed to deliver to the trustee the Domestic Support Obligation Checklist. This checklist is designed to assist the trustee in giving the notices required by 11 U.S.C. § 1302(d).

The trustee must provide a written notice both to the holder of a claim for a domestic support obligation and to the state child support enforcement agency. See 11 U.S.C. §§ 1302(d)(1)(A) & (B). The state child support enforcement agency is the agency established under sections 464 and 466 of the Social Security Act. See 42 U.S.C. §§ 664 & 666. Section 1302(d)(1)(C) requires a third, post-discharge notice to both the claim holder and the state child

support enforcement agency.

The trustee's notice to the claimant must: (a) advise the holder that he or she is owed a domestic support obligation; (b) advise the holder of the right to use the services of the state child support enforcement agency for assistance in collecting such claim; and (c) include the address and telephone number of the state child support enforcement agency.

The trustee's notice to the State child support enforcement agency required by section 1302(d)(1)(B) must: (a) advise the agency of such claim; and (b) advise the agency of the name, address and telephone number of the holder of such claim.

By failing to provide the checklist to the trustee, the debtor has disregarded the order that it be provided, has breached the duty to cooperate with the trustee imposed by 11 U.S.C. § 521(a)(3) & (a)(4), and has caused delay to the prejudice of creditors. This is cause for dismissal. See 1307(c)(1).

9. 09-25716-A-13G BRYAN CASTANEDA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-16-09 [10]

Final Ruling: The motion will be dismissed because it is moot. The case was converted to one under chapter 7 on April 27.

10. 09-24618-A-13G TERESITA CABANILLA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [7]

- 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).

Also, the debtor filed two other cases. The first, Case No. 09-21438, predates this case and it was dismissed because the debtor failed to file all schedules and statements and a plan. The debtor also filed Case No. 09-26892 after filing the case on calendar. None the schedules and statements or a plan were filed in this latest case.

11. 09-23620-A-13G JUANA GONZALEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-10-09 [15]

- Telephone Appearance
- Trustee Agrees with Ruling

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

The debtor has not proposed a plan within 15 days of the filing of the petition as required by Fed. R. Bankr. P. 3015(b). Because no plan has been filed, it comes as no surprise that the debtor has failed to commence plan payments. This is cause for dismissal of the case. See 11 U.S.C. § 1307(c)(3) & (c)(4).

12. 09-23121-A-13G ROBERT JULIEN HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-31-09 [15]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

13. 09-25024-A-13G ELENITA DEVERA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-10-09 [11]

- 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. While the schedules and statements were tardily filed on April 21, they were not accompanied by a proposed plan. By failing to propose a plan and file timely schedules and statements, 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).

14. 09-24029-A-13G BRENDA VIERRA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [9]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

15. 09-24730-A-13G ORLANDO ASUNCION, JR. HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [12]

Final Ruling: The motion will be dismissed because it is moot. The case was previously ordered dismissed.

16. 09-22731-A-13G CESARIO CORDOVA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-31-09 [14]

Final Ruling: The motion will be dismissed because it is moot. The case was previously ordered dismissed.

17. 09-24031-A-13G MARCELO/MARIA GOMEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [11]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

18. 08-37732-A-13G GLENN/KIMBERLY ALVAREZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [99]

- 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 \$8,372 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).

19. 09-24032-A-13G DAVID ELDRIDGE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [9]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

20. 09-23433-A-13G JOHN MOHAMMED HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-10-09 [14]

- 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 Litton Loan Servicing and Bank of America hold secured, long term claims. There are pre-petition arrears owed on these claims 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 claims held by Litton Loan Servicing and Bank of America. This has delayed payment to these creditors to their prejudice. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

21. 09-21135-A-13G EMILIO/BELLA CUBILLO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-1-09 [24]
- 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 and has not paid approximately \$1,910 to the trustee as required by the proposed plan. This 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) & (c)(4).

22. 09-21744-A-13G ROBERT/LISA WILLOX HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-16-09 [14]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

23. 09-23544-A-13G CRAIG/CLARA HAMMER HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-24-09 [10]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

24. 08-35945-A-13G NANCY BARBER HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
4-13-09 [34]
- Telephone Appearance
 Trustee Agrees with Ruling

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

The debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The court sustained the trustee's objection to confirmation at a hearing on March 2, 2009. 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).

25. 09-23145-A-13G STEPHEN/DEBORAH RAMIREZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-24-09 [18]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

26. 08-38846-A-13G GERTRUDO DIOSO AND HEARING - MOTION FOR
RDG #2 GINA BELEN ORDER OF DISMISSAL
4-13-09 [47]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be conditionally denied.

The court denied confirmation of a plan at a hearing on April 6. The debtor then failed to file and serve a modified plan and a motion to confirm it. However, after this dismissal motion was filed, the debtor filed, served, and set for hearing a motion to confirm a modified plan. The motion will be heard on June 1. On condition that the debtor's motion is granted and the modified plan is confirmed at the hearing on June 1, the case will remain pending. If it is not granted, the petition will be dismissed on the trustee's further ex parte application. The failure to confirm a plan within a reasonable time after filing the petition has caused delay to the prejudice of the creditors. See 11 U.S.C. § 1307(c) (1).

27. 09-21651-A-13G NELLIE YANEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [20]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

28. 09-25452-A-13G RONALD/BONNIE LEWIS HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [16]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

29. 09-25652-A-13G ISABEL RODRIGUEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [13]

- 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).

30. 09-22153-A-13G DAVID SPLAN AND HEARING - MOTION FOR
RDG #1 JOANNE STELLINI ORDER OF DISMISSAL
4-7-09 [17]

- 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 and has not paid approximately \$4,691.62 to the trustee as required by the proposed plan. This 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) & (c)(4).

31. 09-25253-A-13G CRESENELO CAROLINO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [12]

- 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).

32. 09-25254-A-13G VISITACION CAROLINO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-13-09 [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).

33. 09-25758-A-13G MARY-ANN MOISES HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-16-09 [9]

Final Ruling: The motion will be dismissed because it is moot. The case was previously ordered dismissed.

34. 09-24059-A-13G SAM PAK HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-30-09 [11]

Final Ruling: The motion will be dismissed because it is moot. The case was previously ordered dismissed.

35. 09-24259-A-13G WILLIAM RILLAMAS HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-6-09 [10]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed because it is moot.

The petition was filed on March 13. 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 March 28. See Fed. R. Bankr. P. 1007(c).

Further, when schedules and statements are not filed by the 45th day of a case, the case is automatically dismissed on the 46th day. See 11 U.S.C. § 521(i)(1). In this case, the 45th day was April 27. The schedules and statements were not filed on or before the 45th day. Thus, on April 28, 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.

36. 09-25161-A-13G MARY SIMPKINS HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-20-09 [14]

- 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).

37. 09-25765-A-13G ROBERT/VICTORIA LOPEZ HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-16-09 [7]

- 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).

38. 09-25169-A-13G OZZIE CASTRO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-10-09 [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).

39. 09-20176-A-13G MARIA/SANTIAGO VALENCIA HEARING - MOTION FOR
RDG #3 ORDER OF DISMISSAL
4-13-09 [36]

- Telephone Appearance
- Trustee Agrees with Ruling

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

First, the debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The court sustained the trustee's objection to confirmation at a hearing on April 6. 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).

Second, the debtor has failed to pay to the trustee approximately \$2,200 as required by the initially 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).

40. 09-22576-A-13G WILLIAM HENTON
RDG #2

HEARING - MOTION FOR
ORDER OF DISMISSAL
4-2-09 [22]

- 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 and has not paid approximately \$2,700 to the trustee as required by the proposed plan. This 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) & (c)(4).

41. 09-21882-A-13G MESAKE FINAU
RDG #1

HEARING - MOTION FOR
ORDER OF DISMISSAL
4-8-09 [19]

- Telephone Appearance
- Trustee Agrees with Ruling

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

First, this case was filed on February 4. Therefore, a proposed plan, schedules, and statements should have been filed no later than February 19. See Fed. R. Bankr. P. 1007(c) and Fed. R. Bankr. P. 3015(b). All of these documents were filed late on February 27. 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 meant that it was 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). A review of the docket reveals that no plan or motion has been filed, served and set for hearing. Thus, 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).

Second, the debtor failed to appear at the meeting of creditors on March 25, as required by 11 U.S.C. § 343. This breach of duty is cause to dismiss the petition. See 11 U.S.C. § 1307(c)(6).

42. 09-22083-A-13G TIFFANY POE
RDG #1

HEARING - MOTION FOR
ORDER OF DISMISSAL
4-10-09 [46]

- Telephone Appearance
- Trustee Agrees with Ruling

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

This case was filed in violation of the injunction issued in Adv. Pro. No. 08-2679.

Also, the debtor failed to appear at the meeting of creditors on April 1 as required by 11 U.S.C. § 343.

43. 09-24689-A-13G ANTHONY/SHANNON MASSA HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [9]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

44. 09-24391-A-13G JEFFEREY/MARCELA SARTUCHE HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [9]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

45. 08-37895-A-13G GINA/JOSEPH HATTERY HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-26-09 [28]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

46. 08-37896-A-13G LARRY/LISA RAASCH HEARING - MOTION FOR
RDG #2 ORDER OF DISMISSAL
3-26-09 [28]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

47. 09-23196-A-13G JANA ABEL HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-24-09 [12]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

48. 09-23996-A-13G MARIA ESCOBEDO HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
3-26-09 [14]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.

49. 09-23997-A-13G JIMMY MARTIN HEARING - MOTION FOR
RDG #1 ORDER OF DISMISSAL
4-7-09 [15]

- Telephone Appearance
- Trustee Agrees with Ruling

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

First, Fed. R. Bankr. P. 1007(b) & (c) required that the debtor file a statement of current monthly income no later than 15 days after the filing of the petition. The 15-day period has expired but this document has been filed. By failing to file this document, 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).

Second, an order to show cause was issued because the debtor failed to file Exhibit D to the petition together with a certificate for credit counseling as required by Fed. R. Bankr. P. 1007(b)(3) and 11 U.S.C. § 521(b). The time to file these documents has expired. See Fed. R. Bankr. P. 1007(c). Thus, the debtor has not established eligibility for bankruptcy relief. See 11 U.S.C. § 109(h). This is cause for dismissal.

Third, the debtor has not proposed a plan within 15 days of the filing of the petition as required by Fed. R. Bankr. P. 3015(b). Because no plan has been filed, it comes as no surprise that the debtor has failed to commence plan payments. This is cause for dismissal of the case. See 11 U.S.C. § 1307(c)(3) & (c)(4).

50. 09-20099-A-13G CHARLES MULLER
RDG #2

HEARING - MOTION FOR
ORDER OF DISMISSAL
4-13-09 [23]

Final Ruling: The trustee has voluntarily dismissed the motion. Thus, this motion will not result in the dismissal of the case.