

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus  
Bankruptcy Judge  
Sacramento, California

December 8, 2008 at 10:00 a.m.

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1. 08-32600-A-13G TROY/TRICIA GRAY HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-5-08 [15]

- 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 \$5,000 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).

2. 08-26006-A-13G ROBERT/CATALINA HERNANDEZ HEARING - MOTION FOR  
RDG #2 ORDER OF DISMISSAL  
11-04-08 [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 \$2,189 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).

3. 08-32607-A-13G MARGARITO/KATHERINE ORTEGA HEARING - MOTION FOR  
RDG #2 ORDER OF DISMISSAL  
11-13-08 [30]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be denied.

The motion asserts that the debtor failed to timely set a hearing on a modified plan. However, a modified plan and a motion to confirm it were filed on November 13 and set for hearing on December 22.

December 8, 2008 at 10:00 a.m.

4. 08-31810-A-13G FOSTER/TERESA BROOKS HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-18-08 [61]

**Final Ruling:** The parties have continued the hearing to January 20, 2009 at 10:00 a.m.

5. 08-32413-A-13G ENRIQUE/MARITZA MARTINEZ HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-5-08 [19]

- 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 \$5,533 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).

6. 08-30814-A-13G PAMELA DOUGLASS HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-04-08 [28]

- 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 \$10,572 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).

7. 08-23119-A-13G JON/ANNA ORBON HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
10-28-08 [33]

- Telephone Appearance
- Trustee Agrees with Ruling

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

This case was filed on March 14, 2008. 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 May 30. 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).

8. 08-35322-A-13G CESAR ESTRADA HEARING - AMENDED MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-21-08 [23]

- 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 23, 2008. Therefore, a proposed plan should have been filed no later than November 7. See Fed. R. Bankr. P. 3015(b). It was filed late on November 24. Because it was 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). No such motion was filed and served. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1), (c)(3) & (c)(4).

9. 08-34423-A-13G JAMAE L DUDLEY HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-6-08 [11]

- 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 October 7. 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 October 22. 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 November 21. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on November 22, 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.

10. 08-36029-A-13G FERNANDO BOLANOS HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-21-08 [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 all 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. 08-34530-A-13G GEORGE/MAURICA TAYLOR HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-7-08 [15]

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

12. 08-34031-A-13G FELICIDAD FUNTANILLA HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-3-08 [13]

- Telephone Appearance
- Trustee Agrees with Ruling

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

The debtor has failed to file the statement of current monthly income (Form 22c) as required by Fed. R. Bankr. P. 1007(b) & (c). And, even though the debtor has filed a plan, it is completely blank other than its caption. In other words, it provides for no payments or dividends. Hence, it is a plan in name only. The failure to timely file all financial information and to propose a complete plan has prejudiced creditors and delayed confirmation of a plan. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

13. 08-35131-A-13G GREGORIO GONZALEZ HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-10-08 [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).

14. 08-34132-A-13G WESLEY/DONNA HIEB HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-5-08 [12]

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

15. 08-35032-A-13G JESSE SCHROEDER AND HEARING - MOTION FOR  
RDG #1 LORRAINE IGLESIAS ORDER OF DISMISSAL  
11-10-08 [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 October 17, 2008. Therefore, a proposed plan should have been filed no later than November 1. See Fed. R. Bankr. P. 3015(b). It was filed late on November 10. Because it was 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). No such motion was filed and served. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1), (c)(3) & (c)(4).

16. 08-34737-A-13G THELMA STRONG HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-04-08 [12]

- 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 October 14. The debtor has not filed all schedules and statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on October 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 November 28. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on November 29, 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. 08-31838-A-13G RUSSELL/JEANETTE PARKS HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-4-08 [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 pay to the trustee approximately \$3,000 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. 08-33541-A-13G FRANCISCO/JILL MARTINEZ HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-5-08 [13]

- 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 \$1,903.51 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).

19. 08-34441-A-13G CESARIO CORDOVA HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-6-08 [11]

- 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 October 7. 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 October 22. 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 November 21. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on November 22, 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.

20. 08-35445-A-13G RONALD GALLARDO, SR. HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-13-08 [13]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be conditionally denied.

The debtor failed to file timely Schedule J, Form 22(c), and a proposed plan. The first two documents were belatedly filed on November 12 and a plan was proposed on November 24. The debtor has served the plan and set it for a confirmation hearing on January 5. On condition that the court confirms the plan at the January 5 hearing, the case shall remain pending. If it is not confirmed, the case will be dismissed on the trustee's ex parte application.

21. 08-35645-A-13G CLAUDIA MORENO HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-13-08 [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 all 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).

22. 08-27350-A-13G EFREN MORA HEARING - MOTION FOR  
RDG #3 ORDER OF DISMISSAL  
11-5-08 [43]

- 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 \$345 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).

23. 08-26155-A-13G CESAR/LETECIA MORENO HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
10-28-08 [45]

**Final Ruling:** The motion will be dismissed as moot. The case was previously converted to one under chapter 7.

24. 08-29555-A-13G JAMES SEYMOUR HEARING - MOTION FOR  
RDG #4 ORDER OF DISMISSAL  
10-30-08 [46]

- Telephone Appearance
- Trustee Agrees with Ruling

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

This case was filed on July 15. 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 October 31. 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. 08-34558-A-13G WILLIAM HENTON HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
10-31-08 [12]

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

26. 08-35658-A-13G NAKISHA GARCIA HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-17-08 [18]

- 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).

27. 08-35659-A-13G CRISOFORA GARCIA HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-17-08 [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 all 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).

28. 08-35163-A-13G TIFFANY POE HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-13-08 [16]

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

29. 08-35966-A-13G CHERYL BERGLUND  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-18-08 [8]

- 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. 08-35571-A-13G MIGUEL GONZALEZ  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-21-08 [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).

31. 05-21079-A-13G LARRY/DIANE BLACK  
RDG #2

HEARING - MOTION FOR  
ORDER CONVERTING CASE TO CHAPTER 7  
11-13-08 [146]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be reconverted to chapter 7.

This case was originally filed on February 1, 2005 under chapter 7. The debtor converted it to a case under chapter 13 on June 24, 2005. The debtor has failed to pay to the trustee approximately \$1,335.10 as required by the confirmed plan. The foregoing is a material breach of the plan and is cause for dismissal or conversion of the case to chapter 7, whichever is in the best interests of creditors. See 11 U.S.C. § 1307(c)(6). A review of the schedules suggests that there is nonexempt equity in assets that might be liquidated by a chapter 7 trustee for the benefit of creditors. Therefore, the case will be converted to chapter 7.

32. 08-34681-A-13G SANCHALEE LEE  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-6-08 [11]

- 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 October 10. 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 October 27. 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 November 24. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on November 25, 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.

33. 08-31283-A-13G JEAN O'BRION  
RDG #2

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-5-08 [32]

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

34. 08-34984-A-13G MICHAEL HOPKINS  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-4-08 [7]

- 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 October 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 November 3. 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 1. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on December 2, 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.

35. 08-29785-A-13G SCOTT/FAYE INOUE HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-04-08 [20]

- Telephone Appearance
- Trustee Agrees with Ruling

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

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).

36. 08-35886-A-13G RAUL DACPANO HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-18-08 [10]

- 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).

37. 08-34788-A-13G ROBERT LOPEZ HEARING - MOTION FOR  
RDG #1 ORDER OF DISMISSAL  
11-04-08 [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).

38. 08-20291-A-13G JOSIAH ALI HEARING - AMENDED MOTION FOR  
RDG #4 ORDER CONVERTING CASE TO CHAPTER 7  
11-18-08 [112]

- Telephone Appearance
- Trustee Agrees with Ruling

**Tentative Ruling:** The motion will be granted and the case will be converted to chapter 7.



dismissal. See 11 U.S.C. § 1307(c)(1).

Also, in violation of General Order 05-05 and an order entered in this case on the date of filing, the debtor has failed to provide the trustee with employer payment advices for the 60-day period preceding the filing of the petition. The failure to provide this documentation is a violation of 11 U.S.C. § 521(a)(3) & (a)(4) and the failure to provide it has delayed confirmation of a plan to the detriment of creditors. This too is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Finally, the debtor has failed to serve the modified plan and set it for a confirmation hearing. This also has delayed confirmation of a plan and is cause to dismiss the case. Id.

42. 08-35594-A-13G MARCELINO ROBLEDO  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-13-08 [9]

**Final Ruling:** The motion will be dismissed as moot. The case was dismissed on November 21.

43. 08-34496-A-13G JORGE TORRES  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
10-28-08 [11]

- 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 October 8. The debtor has not filed all schedules and statements required by 11 U.S.C. § 521(a)(1). The time to file those documents expired on October 23. 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 November 22. The schedules and statements were not filed on or before the 45<sup>th</sup> day. Thus, on November 23, 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.

44. 08-35596-A-13G SAMRAWIT GEBAI  
RDG #1

HEARING - MOTION FOR  
ORDER OF DISMISSAL  
11-13-08 [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).