

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

January 21, 2014 at 2:00 p.m.

1. 09-33326-A-13 RODIJAH AHMACH MOTION TO
JPJ-1 DISMISS CASE
1-7-14 [74]

- Telephone Appearance
- Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted.

The plan has a duration of 60 months. The debtor is now in the 55th month under the plan. Because one or more claims are higher than assumed by the debtor, it will take 68 to consummate the plan. Local Bankruptcy Rule 3007-1(d) requires that a plan be modified or claim(s) be objected to when the plan is no longer feasible in light of the claims filed by or on behalf of creditors. Despite a reasonable opportunity to do so, the debtor has not sought to modify the plan. This suggests that the debtor either does not intend to confirm a modified 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).

2. 13-33129-A-13 RAYMUNDO/WILHELMINA MOTION TO
JPJ-2 ARROYO DISMISS CASE
1-6-14 [49]

Final Ruling: The motion will be dismissed as moot. The case was previously dismissed.

3. 13-33330-A-13 JAMES BYRNE AND MARY MOTION TO
JPJ-1 TORRES-BYRNE DISMISS CASE
12-30-13 [38]

- Telephone Appearance
- Trustee Agrees with Ruling

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

First, debtor James Byrne failed to appear at the meeting of creditors 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).

Second, the debtor has failed to commence making plan payments and has not paid approximately \$3,200 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).

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Third, Local Bankruptcy Rule 3015-1(b)(6) provides: "Documents Required by Trustee. The debtor shall provide to the trustee, not later than the fourteen (14) days after the filing of the petition, Form EDC 3-088, *Domestic Support Obligation Checklist*, or other written notice of the name and address of each person to whom the debtor owes a domestic support obligation together with the name and address of the relevant state child support enforcement agency (see 42 U.S.C. §§ 464 & 466), Form EDC 3-086, *Class 1 Checklist*, for each Class 1 claim, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*." Because the plan includes a class 1 claim, the debtor was required to provide the trustee with a Class 1 checklist.

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

4. 13-34549-A-13 SHAWN NELSON MOTION TO
JPJ-1 DISMISS CASE
12-17-13 [25]

- Telephone Appearance
- Trustee Agrees with Ruling

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

First, 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.

Second, the debtor is not eligible for chapter 13 relief because Schedules D, E, and F shows that the debtor owes more than \$900,000 in noncontingent, liquidated unsecured debt. This exceeds the \$383,175 maximum permitted by 11 U.S.C. § 109(e).