

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

November 10, 2014 at 2:00 p.m.

1. 14-30011-A-13 TIFFANY FINLEY MOTION TO
JPJ-1 DISMISS CASE
10-24-14 [16]

- Telephone Appearance
- Trustee Agrees with Ruling

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

The debtor filed Exhibit D to the petition with a statement that the debtor had received credit counseling prior to filing the petition but did not have a certificate demonstrating completion of that counseling. The debtor failed to file this certificate within 14 days after filing the petition as required by 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.

2. 14-29341-A-13 FRANCES VASQUEZ MOTION TO
JPJ-1 DISMISS CASE
10-24-14 [21]

- Telephone Appearance
- Trustee Agrees with Ruling

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

11 U.S.C. § 109(h) prohibits an individual from being a debtor under any chapter unless that individual received a credit counseling briefing from an approved non-profit budget and credit counseling agency before the petition is filed. In this case, the certificate evidencing that briefing indicates that it was received after, not before, the petition was filed. Hence, the debtor was not eligible for bankruptcy relief when this petition was filed.

3. 14-29262-A-13 WALLEN YEP MOTION TO
JPJ-1 DISMISS CASE
10-24-14 [22]

- 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 September 16. Therefore, a proposed plan should have been filed no later than September 30. See Fed. R. Bankr. P. 3015(b). It was filed on October 13. While this was timely because the court extended the deadline for filing the plan, because it was not filed before the trustee served the notice of the commencement of the case, the plan was not served on

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creditors with that notice. This meant that it is incumbent on the debtor to serve the proposed plan and a motion to confirm it on all parties in interest. See Local Bankruptcy Rule 3015-1(c)(3) & (d)(1). A review of the docket reveals that the debtor has not filed a motion nor has the debtor served the plan. This will necessarily delay confirmation of a plan and prevent the conduct of a confirmation hearing within the time required by 11 U.S.C. § 1324. This delay, then, is prejudicial to creditors and is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Second, 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 failed to do so.

4. 12-20389-A-13 EDMOND/CARMELA CHILDS MOTION TO
JPJ-1 DISMISS CASE
10-8-14 [35]

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The motion will be denied. The motion is based on the failure of the debtor to lodge a proposed order on the valuation motion concerning Wells Fargo Bank's collateral. That order was lodged and entered on October 21.