

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Bakersfield Federal Courthouse
510 19th Street, Second Floor
Bakersfield, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: JUNE 7, 2017
CALENDAR: 9:00 A.M. CHAPTERS 13 AND 12 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [16-13901](#)-A-13 LARRY/SILVIA HULSEY MOTION TO DISMISS CASE
MHM-2 4-27-17 [[35](#)]
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.
DISMISSED

Final Ruling

The case dismissed, the motion is denied as moot.

2. [17-10102](#)-A-13 JASON CAUDILL MOTION TO DISMISS CASE
MHM-2 4-10-17 [[22](#)]
MICHAEL MEYER/MV
NEIL SCHWARTZ/Atty. for dbt.
DISMISSED

Final Ruling

The case dismissed, the motion is denied as moot.

3. [17-11205](#)-A-13 TOMMY/BRENDA PARKER OBJECTION TO CONFIRMATION OF
ASW-1 PLAN BY U.S. BANK NATIONAL
U.S. BANK NATIONAL ASSOCIATION ASSOCIATION
ASSOCIATION/MV 5-8-17 [[24](#)]
WILLIAM OLCOTT/Atty. for dbt.
DANIEL FUJIMOTO/Atty. for mv.
RESPONSIVE PLEADING

No tentative ruling.

4. [17-11205](#)-A-13 TOMMY/BRENDA PARKER MOTION TO DISMISS CASE
MHM-1 5-8-17 [[20](#)]
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

5. [17-10012](#)-A-13 MICHAEL SPRINGSTEAD MOTION TO CONFIRM PLAN
RSW-1 4-19-17 [[28](#)]
MICHAEL SPRINGSTEAD/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING, PLAN
WITHDRAWN

Final Ruling

The plan withdrawn, the matter is denied as moot.

6. [17-10812](#)-A-13 CARLOS HERNANDEZ MOTION TO DISMISS CASE
MHM-1 5-5-17 [[18](#)]
MICHAEL MEYER/MV
ALLAN WILLIAMS/Atty. for dbt.
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

7. [17-11012](#)-A-13 ROSA POMPA DE AYON MOTION TO DISMISS CASE
MHM-1 5-5-17 [[18](#)]
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

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| 8. | 17-11012 -A-13 ROSA POMPA DE AYON
SW-1
ALLY FINANCIAL INC./MV
SCOTT LYONS/Atty. for dbt.
ADAM BARASCH/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-16-17 [23] |
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Final Ruling

The case dismissed, the motion is denied as moot.

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| 9. | 16-12618 -A-13 PAUL/JACKIE PENA
MHM-4
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING | CONTINUED MOTION TO DISMISS
CASE
3-29-17 [68] |
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Final Ruling

The trustee moved to dismiss for failure to lodge a confirmation order, LBR 3015-1(e). The debtors opposed. The hearing on this motion to dismiss was continued to this date to coincide with the hearing on confirmation. The motion will be denied as moot given that the court has ruled that it will confirm the modified plan in this case.

10. [16-12618](#)-A-13 PAUL/JACKIE PENA
PK-2
PAUL PENA/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO CONFIRM PLAN
4-20-17 [[75](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

11. [17-10021](#)-A-13 TERRY/MAUREEN HENDERSON
DMG-2
TERRY HENDERSON/MV
D. GARDNER/Atty. for dbt.

MOTION TO CONFIRM PLAN
4-19-17 [[35](#)]

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

12. [16-12426](#)-A-13 PATSY ALLEN
PPR-1
CHAMPION MORTGAGE COMPANY
(NATIONSTAR MORTGAGE, LLC,
ROBERT WILLIAMS/Atty. for dbt.
BONNI MANTOVANI/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-26-17 [[49](#)]

No tentative ruling.

13. [14-16029](#)-A-13 DAGMAR VAUGHAN
RSW-2
DAGMAR VAUGHAN/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO MODIFY PLAN
5-1-17 [[74](#)]

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(2), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden. The court will grant the motion and approve the modification of the plan.

14. [17-10532](#)-A-13 COREY GARCIA
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
4-10-17 [[16](#)]

Final Ruling

The motion withdrawn, the matter is dropped as moot.

15. [17-10034](#)-A-13 VIRGILIO/YOLANDA SERCENA MOTION TO DISMISS CASE
MHM-1 4-26-17 [[38](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

16. [17-11239](#)-A-7 CALVIN WYATT AND DEBORAH MOTION TO DISMISS CASE
MHM-1 HUGGINS-WYATT 5-8-17 [[17](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
CONVERTED

Final Ruling

The case converted to chapter 7, the matter is denied as moot.

17. [16-13241](#)-A-13 MONIQUE BOOKOUT MOTION TO MODIFY PLAN
RSW-2 5-2-17 [[34](#)]
MONIQUE BOOKOUT/MV
ROBERT WILLIAMS/Atty. for dbt.

[The hearing on this matter will be concurrent with the hearing on the objection to confirmation in this case having docket control no. RSW-2, and the court will treat that objection to confirmation as an opposition to this motion to confirm.]

No tentative ruling.

18. [16-13241](#)-A-13 MONIQUE BOOKOUT OBJECTION TO CONFIRMATION OF
RSW-2 PLAN BY U.S. BANK NATIONAL
U.S. BANK NATIONAL ASSOCIATION
ASSOCIATION/MV 5-18-17 [[42](#)]
ROBERT WILLIAMS/Atty. for dbt.
DIANA TORRES-BRITO/Atty. for mv.

Tentative Ruling

Motion: The court deems this matter (Creditor's Objection to Confirmation of Plan) to be combined with the debtor's motion to confirm as an opposition

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Motion to modify is denied

Order: Civil minute order

No responding party is required to file written opposition to the objection; opposition may be presented at the hearing. LBR 3015-1(c)(4), 9014-1(f)(2)(C). If opposition is presented at the hearing,

the court may rule on the merits or set a briefing schedule. Absent such opposition, the court will adopt this tentative ruling.

FACTS

The modified plan proposes the following additional provision:

"6.03 Section 2.08 is modified to provide that the trustee shall pay to secured creditor Nationstar Mortgage LLC a total of \$6,2658.85 [sic] in regular monthly payments through April 2017. Payment of the regular monthly payments shall resume in May 2017. Payment on the real estate arrears to secured creditor Nationstar Mortgage LLC shall begin in month 13. The missed regular monthly payments shall be paid with late charges as funds are available in the plan by month 60."

Ch. 13 Plan - First Modified, ECF No. 36.

The Class 1 creditor, U.S. Bank National Association, has objected on two grounds to its treatment under the modified plan. First, it contends that its treatment is vague and speculative as to the ongoing mortgage payments, does not provide adequate protection, and is not feasible. Second, it argues that its treatment does not satisfy 11 USC § 1322(b)(5) because payment on the arrears does not begin until month 13.

LACK OF FEASIBILITY

The court considers only the first ground for objection as that ground is dispositive. The monthly plan payment as provided in additional provision section 6.01 is \$2,369.46 from May 2017 through the end of the plan's term. The debtor's Schedule J, Line 23c, shows net income of \$2,361.11.

Assuming the debtor's figure in section 6.03 is approximately \$6,265.88 (rather than \$62,658.85), the debtor's modified plan effectively attempts to shift 2 ongoing mortgage payments to the last month of the plan. This is because between the petition date and April 25, 2017, a total of \$8762.39 of ongoing mortgage payments came due (which is 7 payments). Section 6.03 proposes to pay only \$6265.88 for the same period, which is approximately 5 payments.

Combined with the regular plan payment of \$2369.46, the two added regular mortgage payments results in a sort of balloon payment of \$4,873.00. (Schedule J's Line 21 does not contain any cash reserve or rainy day fund that could be used to pay this amount.) Accordingly, the plan is not feasible as proposed. See 11 U.S.C. §§ 1325(a)(6), 1329(b)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's motion to approve a mod has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, including U.S. Bank, N.A.'s objection to confirmation, and having heard the arguments of counsel, if any, and good cause appearing,

IT IS ORDERED that the debtor's motion to modify the plan is denied,

and the creditor's objection to confirmation of the modified plan is sustained. The modification is disapproved.

19. [17-10750](#)-A-13 LOIS GOUGH LOPEZ MOTION TO DISMISS CASE
MHM-1 4-10-17 [[18](#)]
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

20. [11-62772](#)-A-13 JOHN/BETH NEMETH CONTINUED MOTION TO CONVERT
MHM-5 CASE FROM CHAPTER 13 TO CHAPTER
7
3-27-17 [[387](#)]
PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

21. [17-11175](#)-A-13 MARCELO MANIBO MOTION TO DISMISS CASE
MHM-1 5-8-17 [[19](#)]
MICHAEL MEYER/MV
VINCENT GORSKI/Atty. for dbt.

No tentative ruling.

22. [15-13086](#)-A-13 CHARLES KEELE MOTION TO RECONSIDER
RWR-2 5-3-17 [[90](#)]
CHARLES KEELE/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

23. [16-14688](#)-A-13 JEREMY/SHIRRELL COOK CONTINUED MOTION TO CONFIRM
WSL-1 PLAN
JEREMY COOK/MV 3-22-17 [[25](#)]
GREGORY SHANFELD/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the trustee, approved by debtor's counsel

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 3015-1(d)(1), 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor bears the burden of proof as to each element. *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994). The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

24. [13-14289](#)-A-13 PHILLIP RUSSELL MOTION FOR COMPENSATION FOR
LKW-6 LEONARD K. WELSH, DEBTORS
ATTORNEY(S)
5-3-17 [[94](#)]

LEONARD WELSH/Atty. for dbt.

Final Ruling

Application: Allowance of Interim Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Law Offices of Leonard K. Welsh has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$2182.50 and reimbursement of expenses in the amount of \$11.96.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Law Offices of Leonard K. Welsh's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on an interim basis. The court allows interim compensation in the amount of \$2182.50 and reimbursement of expenses in the amount of \$11.96. The aggregate allowed amount equals \$2194.46. As of the date of the application, the applicant held a retainer in the amount of \$0.00. The amount of \$495.90 shall be allowed as an administrative expense to be paid through the plan, and the remainder of the allowed amounts, if any, shall be paid directly by the debtor.

IT IS FURTHER ORDERED that the fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

25. [17-10993](#)-A-13 MARTIN/ERMILA AGUILAR MOTION TO DISMISS CASE
MHM-1 5-5-17 [[25](#)]
MICHAEL MEYER/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

26. [17-11894](#)-A-13 ANTONIO TINOCO MOTION TO IMPOSE AUTOMATIC STAY
DRJ-2 5-18-17 [[8](#)]
ANTONIO TINOCO/MV
DAVID JENKINS/Atty. for dbt.

Tentative Ruling

Motion: Impose the Automatic Stay

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted except as to any creditor without proper notice of the motion

Order: Prepared by moving party pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Upon request of a party in interest, the court may impose the automatic stay where the debtor has had two or more previous bankruptcy cases that were pending within the 1-year period prior to the filing of the current bankruptcy case but were dismissed. See 11 U.S.C. § 362(c)(4)(B). The stay may be imposed "only if the party in interest demonstrates that the filing of the *later case* is in *good faith* as to the creditors to be stayed." *Id.* (emphases added). However, the motion must be filed no later than 30 days after the filing of the later case. *Id.* The statute does not require the hearing to be completed within such 30-day period.

The court finds that 2 or more cases were pending within the one-year period before the filing of the current bankruptcy case but were dismissed. For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the creditors to be stayed. The motion will be granted except as to any creditor without proper notice of the motion.

27. [17-10596](#)-A-13 JACQUELINE SCOTT
MHM-1
MICHAEL MEYER/MV
MICHAEL AVANESIAN/Atty. for dbt.

MOTION TO DISMISS CASE
4-10-17 [[21](#)]

Final Ruling

Motion: Dismiss Case

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

CASE DISMISSAL

The debtor has failed to provide the trustee with required or requested documents. See 11 U.S.C. § 521(a)(3)-(4).

The debtor has failed to provide the trustee with required tax returns (for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed) no later than 7 days before the date first set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)-(B).

For the reasons stated in the motion, cause exists to dismiss the case. *Id.* § 1307(c)(1).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having entered the default of the respondent debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted for unreasonable delay by the debtor that is prejudicial to creditors. The court hereby dismisses this case.

28. [17-10697](#)-A-7 ROBERTA CUMBERLAND
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
CONVERTED

MOTION TO DISMISS CASE
4-10-17 [[31](#)]

Final Ruling

The case converted to chapter 7, the matter is denied as moot.