

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

August 14, 2017 at 2:00 p.m.

1. 17-21428-A-13 ROBERT/VALERIE KUSHNER MOTION TO
JPJ-2 DISMISS CASE
7-10-17 [70]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the case dismissed as to debtor Robert Kushner.

The case was previously dismissed as to debtor Valerie Kushner. The case will now be dismissed as to debtor Robert Kushner.

The debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The debtor thereafter failed to promptly propose a modified plan and set it for a confirmation hearing. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(5). And, to the extent the debtor hopes to confirm the last plan proposed, the motion will not be successful in as much as the debtor has failed to make \$10,115 of the payments it requires. That plan is not feasible as required by 11 U.S.C. § 1325(a)(6).

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).

2. 17-23741-A-13 ROSE-MARIE NOCEDA MOTION TO
JPJ-1 DISMISS CASE
7-10-17 [23]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied.

The mere fact that there is a pending chapter 7 case by the debtor is not sufficient to dismiss this case. There is no applicable statutory bar and there are two practical reasons the pending chapter 7 will have no impact on the chapter 13 case. First, the chapter 7 trustee has filed a report of no distribution. Second, the debtor is not eligible for a chapter 7 discharge. Thus, the chapter 7 case will not have, as a practical matter any impact on the property of the estate or the claims in the chapter 13 case.

August 14, 2017 at 2:00 p.m.

3. 17-22153-A-13 DONNA WELCH
JPJ-1

MOTION TO
DISMISS CASE
7-31-17 [38]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be conditionally denied.

The debtor proposed a plan within the time required by Fed. R. Bankr. P. 3015(b) but was unable to confirm it. The debtor thereafter failed to promptly propose a modified plan and set it for a confirmation hearing. This is cause for dismissal. See 11 U.S.C. § 1307(c)(1) & (c)(5).

After the dismissal motion was filed, the debtor filed, served and set for hearing a motion to confirm a modified plan. It is set for hearing on September 18, 2017. Therefore, if the proposed modified plan is not confirmed at that hearing, the case will be dismissed on the trustee's ex parte application.