

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

August 18, 2014 at 2:00 p.m.

1. 14-25902-A-13 ERNESTINE OUTLIN MOTION TO
JPJ-2 DISMISS CASE
7-30-14 [28]

- Telephone Appearance
- Trustee Agrees with Ruling

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

The debtor's signature on the petition was signed by the debtor's sister. This was purportedly done pursuant to a power of attorney. However, that the power of attorney is effective only if the debtor is incapacitated as proven by a court ordered guardianship or conservatorship or the certification of two physicians that the debtor is unable to care for herself. There is no guardianship or conservatorship nor have two doctors attested to the debtor's incapacity.

Further, if the power of attorney were effective, it appoints two agents in fact who must act together. Only one has been involved in the filing of this case.

Finally, if an agent in fact were signing on behalf of the debtor, the signature should have been the agent's signature as agent and not a forgery of the debtor's signature.

2. 14-24691-A-13 MICHAEL LAMB AND MARGARET MOTION TO
JPJ-2 LEDOUX-LAMB DISMISS CASE
7-30-14 [53]

- Telephone Appearance
- Trustee Agrees with Ruling

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

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 June 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).

August 18, 2014 at 2:00 p.m.