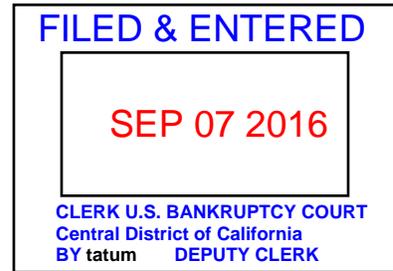


CAROLYN A. DYE (SBN 97527)
3435 Wilshire Blvd.
Suite 990
Los Angeles, CA 90010
213/368-5000 – Telephone
213/368-5009 – Facsimile
Email: cdye@cadye.com

Chapter 7 Trustee



NOT FOR PUBLICATION

CHANGES MADE BY COURT

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

<p>In re:</p> <p>BILLY JOE CONNOR JR.,</p> <p style="text-align: right;">Debtor.</p>	<p>) Case No. 2:16-bk-14636-RK</p> <p>) [Chapter 7]</p> <p>)</p> <p>) ORDER ON CHAPTER 7 TRUSTEE'S</p> <p>) REQUEST TO DISMISS CHAPTER 7</p> <p>) CASE PURSUANT TO 11 U.S.C. §</p> <p>) 521(e)(2)</p> <p>)</p> <p>) [No Hearing Required]</p> <p>)</p> <p>)</p>
--	---

Pending before the court is the “Trustee’s Request to Dismiss Pursuant to 11 U.S.C. § 521(e)(2) for Failure to Provide Tax Returns: Opportunity to Request Hearing” (“Request”), ECF 15, filed on August 11, 2016), and Trustee’s Declaration that No Party Requested a Hearing on Motion, ECF 16, filed on September 2, 2016, by Carolyn A. Dye, the Chapter 7 Trustee (“Trustee”) of the bankruptcy estate of Billy Joe Conner, Jr. (“Debtor”). Although Trustee’s Request was served on Debtor, the United States Trustee and the court, the proof of service for Trustee’s Request indicates that it was not served on any creditors in compliance with Rule 2002(a)(4) of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 9013-1(o)(1)(A). See *Verification of Master Mailing*

1 *List of Creditors* (identifying creditors), ECF 6, filed on April 13, 2016 prior to the Trustee's
2 Request being filed.

3 Trustee filed her Request pursuant to Local Bankruptcy Rule 9013-1(o), which
4 permits a motion to be heard upon notice of opportunity to request a hearing, and
5 Trustee's Request is a motion for purposes of Local Bankruptcy Rule 9013-1(o) because it
6 is a written request for an order not made during a hearing, which defines a motion
7 pursuant to Federal Rule of Bankruptcy Procedure 9013 ("A request for an order, except
8 when an application is authorized by these rules, shall be by written motion, unless made
9 during a hearing."). Local Bankruptcy Rule 9013-1(o) requires that the notice of
10 opportunity to request a hearing be "served by the moving party on all creditors and other
11 parties in interest *who are entitled to notice of the particular matter.*" (Emphasis added). In
12 Chapter 7 bankruptcy cases, such as this one, Federal Rule of Bankruptcy Procedure
13 2002(a)(4) requires that notice of a hearing to dismiss a Chapter 7 bankruptcy case be
14 given to the debtor, the trustee, all creditors and indenture trustee "unless the hearing is
15 under [11 U.S.C.] § 707(a)(3) or § 707(b) or is on dismissal of the case for failure to pay
16 the filing fee." Notice to all creditors of a motion to dismiss the bankruptcy case is
17 required under Federal Rule of Bankruptcy Procedure 2002(a)(4) is required because
18 dismissal of the bankruptcy case may affect their rights.

19 Based on a plain reading of Bankruptcy Rule 2002(a)(4), Trustee's request or
20 motion to dismiss a Chapter 7 case pursuant to 11 U.S.C. § 521(e)(2) requires service on
21 the debtor, the trustee, all creditors and indenture trustee since it does not fall under one of
22 the enumerated exceptions to the rule, and Trustee has not identified any exception to the
23 rule regarding service of a motion/request to dismiss a Chapter 7 case pursuant to 11
24 U.S.C. § 521(e)(2) in her papers. As noted above, Trustee did not serve her Request to
25 dismiss Debtor's Chapter 7 case pursuant to 11 U.S.C. § 521(e)(2) on all creditors as
26 required by the rules cited above.

27 Accordingly, IT IS HEREBY ORDERED that within 14 days of entry of this order,
28 Trustee must re-serve her Request to Dismiss Debtor's Chapter 7 case pursuant to 11

1 U.S.C. § 521(e)(2) on all required notice parties, including, the Debtor, the United States
2 Trustee, and all creditors, pursuant to Federal Rule of Bankruptcy Procedure 2002(a)(4),
3 and to file a new declaration that no party requested a hearing on the motion if no party
4 requests a hearing after re-service.

5 IT IS SO ORDERED.

6 ###

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Date: September 7, 2016



25 _____
Robert Kwan
United States Bankruptcy Judge
26
27
28