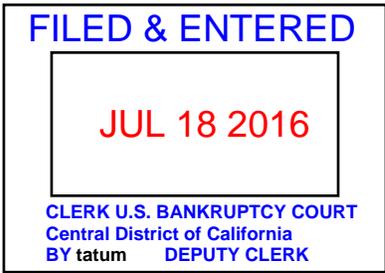


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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
DOROTHY B. JENSEN,
Debtor.

Case No. 2:16-bk-18355-RK
Chapter 7
**ORDER CONDITIONALLY GRANTING
DEBTOR'S MOTION TO REQUEST
COURT SET ASIDE DISMISSAL AND
TERMINATION FOR FAILURE TO FILE
FORMS IN TIMELY MANNER**
[No Hearing Required]

Pending before the court is Debtor Dorothy B. Jensen's ("Debtor") motion to set aside the Order dismissing her Chapter 7 bankruptcy case ("Motion"). ECF 12, filed on July 12, 2016. On July 6, 2016, the court entered the Order dismissing her Chapter 7 case for failure to timely file her case opening documents, including Official Form 106Sum. ECF 12.

Having reviewed the Motion and the court's record, the court determines that Debtor in her Motion has shown that she was under the mistaken belief that she timely filed Official Form 106Sum with her other case opening documents on July 6, 2016, which she did not do according to the case docket. See ECF 12. Accordingly, the court determines that Debtor's failure to timely file Official Form 106Sum was due to her "excusable neglect" to warrant reconsideration of the dismissal of her bankruptcy case

1 under Federal Rule of Bankruptcy Procedure (“Bankruptcy Rule”) 9024, which
2 incorporates by reference Federal Rule of Civil Procedure 60(b)(1). Additionally, the
3 court notes that Debtor filed Official Form 106Sum concurrently with this Motion. ECF
4 15. However, Debtor failed to attach to her Motion a supporting declaration in
5 compliance with Local Bankruptcy Rule 1017-2(c)(1), which requires “[a]ny motion
6 requesting that the dismissal of a case for failure to timely file a required document . . .
7 must be supported by a declaration under penalty of perjury establishing sufficient
8 explanation why the documents were not timely filed.”).

9 Accordingly, in considering the totality of the circumstances of Debtor’s Motion,
10 and the explanation of her circumstances,

11 IT IS ORDERED as follows:

- 12 1. Debtor’s Motion is GRANTED pursuant to Bankruptcy Rule 9024 and Local
13 Bankruptcy Rules 1017-2(c)(1) and 9013-1(q), subject to the condition that
14 Debtor remedies the procedural defect of her Motion not being supported
15 by competent and sufficient evidence, including a declaration under
16 penalty of perjury, that supports the factual assertions made in the
17 Motion as required by Local Bankruptcy Rule 1017-2(c)(1) and as set
18 forth in paragraph 4 below.
- 19 2. The order dismissing this bankruptcy case is hereby VACATED, and the
20 case is reinstated as an active bankruptcy case.
- 21 3. The Chapter 7 trustee is ordered to be reappointed to administer Debtor’s
22 Chapter 7 case.

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4. To remedy the procedural defect of the lack of a declaration under penalty of perjury supporting Debtor's Motion, Debtor is ordered to file a declaration under penalty of perjury reciting a factual basis for the claim of her "excusable neglect" by July 29, 2016 as required by Local Bankruptcy Rule 1017-2(c)(1), or otherwise, the court may reconsider and vacate this order and issue another order for dismissal.

IT IS SO ORDERED.

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Date: July 18, 2016



Robert Kwan
United States Bankruptcy Judge