

FILED & ENTERED

SEP 11 2019

CLERK U.S. BANKRUPTCY COURT
Central District of California
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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

ISELA CRUZ,

Debtor.

Case No. 2:19-bk-10044-RK

Chapter 7

**MEMORANDUM DECISION ON DEBTOR'S
MOTION TO CONVERT CASE FROM
CHAPTER 7 TO CHAPTER 13**

Hearing

Date: September 10, 2019

Time: 2:30 p.m.

Courtroom: 1675

This bankruptcy case came on for hearing before the court on September 10, 2019 at 2:30 p.m. on the Motion of Debtor Isela Cruz to Convert from Chapter 7 to Chapter 13 filed by Debtor Isela Cruz through her counsel, D. Justin Harelik, of Westgate Law, on August 7, 2019 (Docket No. 14). No appearance was made by any party, including Debtor and her counsel.

The original notice of motion and motion filed on August 7, 2019 indicated that the hearing on the motion was noticed for September 24, 2019 at 3:30 p.m. (Docket No. 14). On August 9, 2019, Debtor filed and served an amended notice of motion of her motion to convert, which noticed the hearing for August 27, 2019 at 2:30 p.m. (Docket

1 No. 17). On August 9, 2019, Debtor filed and served a second amended notice of
2 motion of her motion to convert, which noticed the hearing on the motion for September
3 10, 2019 at 2:30 p.m. (Docket No. 19). On September 9, 2019, the court posted a
4 tentative ruling for the motion on the court's website, which stated that appearances
5 were required on the motion (copy attached).

6 Having considered Debtor's motion to convert the case from one under Chapter
7 7 of the Bankruptcy Code to one under Chapter 13 and conducted the hearing on the
8 motion, the court rules as follows:

- 9 1. The court denies the motion for the reasons stated in the court's tentative
10 ruling on the motion (copy attached).
- 11 2. The court also denies the motion for failure of counsel for Debtor as the
12 moving party to appear at the hearing as required pursuant to Local
13 Bankruptcy Rule 9013-1(j)(1) as failure of counsel or a self-represented party
14 to appear at the hearing on the motion unless excused by the court in
15 advance may be consent to a ruling adverse to that counsel's or self-
16 represented party's position.
- 17 3. A separate final order denying the motion is being filed and entered
18 concurrently herewith.

19 IT IS SO ORDERED.

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24
25 Date: September 11, 2019



26 Robert Kwan
27 United States Bankruptcy Judge
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ATTACHMENT – TENTATIVE RULING ON MOTION

Deny debtor's motion to convert case from Chapter 7 to Chapter 13 because debtor has already received her Chapter 7 discharge, and thus, having obtained the benefits of Chapter 7 by receiving her discharge, is seeking to avoid the burdens that went with that discharge by preventing the Chapter 7 trustee from fully administering the Chapter 7 bankruptcy estate. In re Santos, 561 B.R. 825 (Bankr. C.D. Cal. 2017); see also, In re Estrada, 568 B.R. 533 (Bankr. C.D. Cal. 2017); but see, In re Carvalho, 2018 WL 4737215 (Bankr. D. D.C. 2018). Appearances are required on 9/10/19, but counsel may appear by telephone.