FILED: June 29, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2303
(1:19-cv-00899-RDA-IDD)

In re: PHILIP JAY FETNER
Debtor

PHILIP JAY FETNER

Debtor - Appellant

v.

WILMINGTON SAVINGS FUND SOCIETY; HOTEL STREET CAPITAL; IRS; US TRUSTEE; STEPHEN S. ROSZEL, VII, et.al.

Creditors - Appellees

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2303

In re: PHILIP JAY FETNER,

Debtor.

PHILIP JAY FETNER,

Debtor - Appellant,

v.

WILMINGTON SAVINGS FUND SOCIETY; HOTEL STREET CAPITAL; IRS; US TRUSTEE; STEPHEN S. ROSZEL, VII, et.al.,

Creditors - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Rossie David Alston, Jr., District Judge. (1:19-cv-00899-RDA-IDD)

Submitted: April 16, 2020 Decided: April 20, 2020

Before GREGORY, Chief Judge, and WYNN and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Philip J. Fetner, Appellant Pro Se. Beth Ann Levene, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Hugh Michael Bernstein, OFFICE OF THE UNITED

STATES TRUSTEE, Baltimore, Maryland; Andrew Justin Narod, BRADLEY ARANT BOULT CUMMINGS LLP, Washington, D.C.; William Davis Ashwell, MARK B. WILLIAMS & ASSOCIATES, PLC, Warrenton, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Philip Jay Fetner appeals the district court's orders dismissing his bankruptcy appeal as untimely and denying reconsideration. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *See Fetner v. Wilmington Sav. Fund*, No. 1:19-cv-00899-RDA-IDD (E.D. Va. Sept. 9, 2019; Oct. 17, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

PHILIP JAY FETNER,	)	
	)	
Appellant,	)	
	)	
v.	)	Civil Action No. 1:19-cv-00899 (RDA/IDD)
	)	
WILMINGTON SAVINGS FUND, SOCIETY, *et al.*,	)	
	)	
	)	
Appellees.	)	

ORDER

This matter came before the Court on Appellant's Motion to Reconsider or for Rehearing [Dkt. 22].

The Court has reviewed the brief submitted by Appellant and has considered his arguments.

Ultimately, the Court is unpersuaded that the judgment entered on September 9, 2019, should be amended, reconsidered, or otherwise altered.

Accordingly, Appellant's Motion to Reconsider or for Rehearing is **DENIED**.

The hearing scheduled for October 18, 2019, is hereby removed from the Court's docket.

It is SO ORDERED.

/s/
Rossie D. Alston, Jr.
United States District Judge

Alexandria, Virginia
October 16, 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

PHILIP JAY FETNER,	)	
	)	
Appellant,	)	
	)	
v.	)	Civil Action No. 1:19-cv-00899 (RDA/IDD)
	)	
WILMINGTON SAVINGS FUND,	)	
	)	
Appellee.	)	

ORDER

This matter came before the Court on the United States Trustee's Motion to Dismiss Appeal [Dkt. 2]. For the reasons stated below, the Motion is granted.

Appellant's case in Bankruptcy Court was converted from Chapter 11 to Chapter 7 on the motion of the U.S. Trustee. On June 13, 2019, the bankruptcy judge entered an order ("Original Order") to that effect, endorsed by the U.S. Trustee but not appellant. Several days later, on June 24, 2019, the bankruptcy court entered another order ("Revised Order"), identical in all respects to the Original Order except for the following: the bankruptcy court inserted the phrase "for the reasons stated by the Court on the record at the hearing held on June 11, 2019" and added a "seen and objected to" signature line for appellant's counsel. The substantive thrust of the Original Order was not amended in any way. Appellant filed a notice of appeal of his bankruptcy case on July 8, 2019, approximately 25 days after the entry of the Original Order.

Federal Rule of Bankruptcy Procedure 8002(a)(1) provides, in relevant part, that "a notice of appeal must be filed with the bankruptcy clerk within 14 days after entry of the judgment, order, or decree being appealed." Thus, Appellant had until June 27, 2019, to file his notice of appeal for this Court to have jurisdiction. It is undisputed that he did not.

Instead, Appellant asserts that he was entitled to attribute the 14-day timeframe to the Revised Order, which would render his notice of appeal on July 8 timely. The U.S. Supreme Court, however, has stated unequivocally that an order amended "in an immaterial way does not toll the time within which review must be sought." *FTC v. Minneapolis-Honeywell Regulator Co.*, 344 U.S. 206, 211 (1952). Even more specifically, the Supreme Court confirmed that an appeal deadline would only be affected if an amended order "change[d] matters of substance, or resolve[d] a genuine ambiguity, in a judgment previously rendered." *Id.* at 211-12.

As was previously noted, the Revised Order did not materially amend the Original Order in any substantive way. The inserted language was boilerplate, and as some might suggest, probably unnecessary. Moreover, Appellant conceded at oral argument that nothing about the Original Order was ambiguous, only asserting that there was an understanding among the parties that the Original Order was a "nullity" that would be subsequently corrected. This Court, however, may not consider circumstances that are outside the record. Having found that the Revised Order did not resolve any ambiguities or modify any areas of genuine substance, the Court concludes that Appellant was required to appeal from the Original Order.

Finally, while the Court is sensitive to Appellant's challenges as a *pro se* litigant, the applicable rule here is jurisdictional in nature, and the Court is not empowered to issue equitable relief.

Accordingly, for the reasons stated above and in open court, the Motion is **GRANTED**, and this case is hereby dismissed.

It is **SO ORDERED.**

/s/
Rossie D. Alston, Jr.
United States Dist

Alexandria, Virginia
September 9, 2019

FILED: June 29, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2319
(1:18-cv-00933-AJT-IDD)

In re: PHILIP JAY FETNER

Debtor

PHILIP JAY FETNER

Debtor - Appellant

v.

HOTEL STREET CAPITAL, L.L.C.; STEPHEN S. ROSZEL

Creditors - Appellees

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2319

In re: PHILIP JAY FETNER,

Debtor.

PHILIP JAY FETNER,

Debtor - Appellant,

v.

HOTEL STREET CAPITAL, L.L.C.; STEPHEN S. ROSZEL,

Creditors - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Anthony John Trenga, District Judge. (1:18-cv-00933-AJT-IDD)

Submitted: April 16, 2020 Decided: April 20, 2020

Before GREGORY, Chief Judge, and WYNN and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Philip Jay Fetner, Appellant Pro Se. Robert Michael Marino, REDMOND, PEYTON & BRASWELL, Alexandria, Virginia; William Davis Ashwell, MARK B. WILLIAMS &

ASSOCIATES, PLC., Warrenton, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Phillip Jay Fetner appeals the district court's orders affirming the bankruptcy court's denial of his second motion to extend the exclusivity period to file a Chapter 11 plan and denying reconsideration. Before Fetner noted this appeal, the bankruptcy court entered an order converting Fetner's Chapter 11 bankruptcy proceeding to one under Chapter 7. Because the bankruptcy case has been converted, we cannot afford Fetner any effective relief. In the context of a bankruptcy proceeding, a court may dismiss an appeal as equitably moot where it would be "impractical or imprudent" to disturb the bankruptcy court's order. *In re U.S. Airways Group, Inc.*, 369 F.3d 806, 809 (4th Cir. 2004) (internal quotation marks omitted); *see In re Stadium Mgmt. Corp.*, 895 F.2d 845, 847 (1st Cir. 1990) ("Absent a stay [of a bankruptcy court transaction or proceeding], the court must dismiss a pending appeal as moot because the court has no remedy that it can fashion even if it would have determined the issues differently."). Accordingly, we dismiss the appeal as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE:	
PHILIP JAY FETNER,	Case No. 17-13036-KHK Chapter 7
Debtor	
PHILIP JAY FETNER,	
Appellant,	
v.	
HOTEL STREET CAPITAL, L.L.C., *et al.*,	Civil Action No. 1:18-cv-933 (AJT/IDD)
Appellees.	

ORDER

On October 10, 2019, Appellant Philip Jay Fetner filed a Motion to Reconsider or for Rehearing [Doc. 20] (the "Motion") of the Court's September 26, 2019 Order [Doc. 19] denying Appellant's Second Motion to Extend Exclusivity Period to File Plan of Reorganization. Upon consideration of the Motion, the Court finds that there are no valid grounds upon which to reconsider its September 26, 2019 Order. Accordingly, it is hereby

ORDERED that Appellant's Motion to Reconsider or for Rehearing [Doc. 20] be, and the same hereby is, DENIED; and it is further

ORDERED that the hearing in the above-captioned matter currently scheduled for Friday, October 25, 2019 at 10:00 a.m. be, and the same hereby is, CANCELLED.

The Clerk is directed to forward a copy of this Order to all counsel of record, and to the *pro se* Appellant at the address listed on the Notice of Appeal.

/s/
Anthony J. Trenga
United States District Judge

Alexandria, Virginia
October 18, 2019

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

PHILIP JAY FETNER, Appellant, v. HOTEL STREET CAPITAL, L.L.C., *et al.*, Appellees.	)	Civil Action No. 1:18-cv-933 (AJT/IDD)

ORDER

This matter is before the Court on appeal from the United States Bankruptcy Court for the Eastern District of Virginia with regard to the Bankruptcy Court's Order Denying Debtor's Second Motion to Extend Exclusivity Period to File Plan of Reorganization (the "Order"). Upon consideration of Appellant Philip Jay Fetner's Notice of Interlocutory Appeal [Doc. No. 1] and the materials and briefs submitted in support thereof and in opposition thereto, the Court finds that this matter is suitable for disposition without oral argument, and for the reasons that follow, the decision of the Bankruptcy Court is AFFIRMED and this appeal is DISMISSED.

On September 7, 2017, Appellant filed a voluntary bankruptcy petition under Chapter 11 in the United States Bankruptcy Court for the Eastern District of Virginia. *In re Philip Jay Fetner*, No. 17-13036-KHK. On January 2, 2018, Appellant filed a motion pursuant to § 1121(d)(1) of the Bankruptcy Code to extend for cause the exclusivity period by five months, through June 5, 2018, citing unresolved contingencies concerning two major creditors (the "First Extension Motion"). The uncontested First Extension Motion was granted, and the exclusivity period was extended to June 5, 2018. On June 2, 2018, Appellant filed a second motion to extend the exclusivity period on the same grounds (the "Second Extension Motion"), which was

opposed by Appellees Hotel Street Capital, L.L.C. ("HSC") and Stephen S. Roszel VIII on the basis that Appellant had failed to show cause. The Bankruptcy Court held a hearing on the Second Extension Motion on June 26, 2018, which the Appellant did not attend, though his counsel did. The Bankruptcy Court denied the Second Extension Motion, finding that there was not sufficient cause to extend the exclusivity period beyond the June 5th date because the matter was not "terribly complex" with "not a lot of creditors" and only "one significant asset," such that no unresolved contingencies "should impede the filing of a plan, [nor] should have impeded the filing of a plan up to this point." Subsequently, by order dated July 16, 2018, the Bankruptcy Court ruled that the previous exclusivity extension had expired on June 5, and that creditors were now free to file Disclosure Statements and Plans of their own.

On July 17, 2018, the Bankruptcy Court held a hearing on Appellant's motion for reconsideration of its denial of the Second Extension Motion (the "Motion for Reconsideration"), which, pursuant to Bankruptcy Rule 9023, it treated as a motion to alter or amend judgment under Fed. R. Civ. P. 59(e). The Bankruptcy Court noted that the Fourth Circuit recognized three grounds for reconsideration under Rule 59: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *In re Circuit City Stores, Inc.*, 426 B.R. 560, 572 (Bankr. E.D. Va. 2010) (internal quotations omitted). The Bankruptcy Court observed that the Appellant failed to raise any new arguments or present new evidence that could not have been raised at the hearing on the Second Motion, which he did not attend; had not requested a continuance of the earlier hearing despite knowing he would not be present; and had not produced evidence as to the reason why a further extension was required. Moreover, the Court concluded that the Appellant's affidavit "proffered no compelling facts or raised any law that

would justify the Court's reversal of its prior ruling." [Doc. No. 3-2, at 21:22–24]. Accordingly, the Bankruptcy Court denied the Motion for Reconsideration, and an order was entered on July 18, 2018. Appellant filed a timely notice of appeal on October 3, 2018, [Doc. No. 16], in which he appeals the Bankruptcy Court's orders denying the Second Extension Motion and Motion for Reconsideration.

The decision to grant or deny a request to extend or shorten the exclusivity period falls within the discretion of the bankruptcy court and is thus reviewed deferentially for abuse of discretion. *See, e.g., Quality Inns Int'l, Inc. v. L.B.H. Assocs. Ltd. P'ship*, 911 F.2d 724 (4th Cir. 1990) (unpublished table opinion) (reviewing bankruptcy court's decision to extend exclusivity period under abuse of discretion standard). A court abuses its discretion only if its discretion was "guided by erroneous legal principles" or "rests upon a clearly erroneous factual finding." *Westberry v. Gislaved Gummi AB*, 178 F.3d 257, 261 (4th Cir. 1999) (citations omitted). Hence, under the abuse of discretion standard, a district court cannot reverse a bankruptcy court's ruling unless it has the "definite and firm conviction that the court below committed a clear error of judgment in the conclusion it reached upon weighing of relevant factors." *Morris v. Wachovia Sec., Inc.*, 448 F.3d 268, 277 (4th Cir. 2006).

Appellant challenges the Bankruptcy Court's denial of the Second Motion to Extend and Motion for Reconsideration on three grounds. First, he argues that the July 16 order failed to recognize the importance of unresolved contingencies as a matter of law. *See* [Doc. 16 at 4]. The Appellant asserts that "without weighing other factors," the unresolved contingencies in and of themselves provided sufficient "cause." [Doc. 16 at 14]. However, Appellant failed to directly or through his counsel provide any testimonial or documentary evidence to support his motion for reconsideration. Notwithstanding that the proper venue to raise any considerations related to

"worsening" contingencies was the June 26th evidentiary hearing, at which the Appellant did not appear, the appeal likewise points to "no compelling facts or raised any law that would justify the Court's reversal of its prior ruling" contained in the affidavit. While the Appellant asserts that the record is "totally inadequate and does not provide a strong basis for denial of the Debtor's Motion," the Appellant attempts to misplace the burden of production with the Court. In the absence of additional evidence, the Court was proper in finding that the "unresolved contingencies" did not support a delay in Fetner's ability to formulate a plan. Thus, the Bankruptcy Court properly exercised its discretion in denying the extension request. Moreover, because the Appellant's sole basis for seeking reconsideration is to present evidence that was available on June 26th at a hearing the Debtor did not attend, the Bankruptcy Court likewise properly exercised its discretion in denying reconsideration.

Appellant's second and third arguments, that he was denied the opportunity to present testimony underlying a determination of cause, [Doc. No. 16 at 6], and that the Bankruptcy Court "fundamentally misunderstood the Code and denied [the Appellant] fundamental due process," [Doc. No. 6 at 6], appears to conflate his failure to appear in court and provide testimony with a lack of an opportunity to do so. "Due process requires that parties be given notice and an *opportunity* to be heard before an ultimate judicial determination is made." *In re Circuit City Stores, Inc.*, 426 B.R. at 566 (emphasis added). With respect to notice, in the instant matter it was the appellant, a veteran attorney, who scheduled the hearing. With respect to the opportunity to appear, the appellant was not precluded from appearance—rather he failed to plan accordingly by either proffering evidence through his counsel or seeking a continuance.

To the extent that Appellant argues that "[t]he Bankruptcy Court clearly tolled exclusivity expiration on June 2, 2018 when it held its hearing on June 26, 2018," [Doc. 16 at 19], the

Appellant misunderstands the doctrine. The doctrine of equitable tolling, as applied in this circuit, is an extraordinary remedy that permits courts to extend a limitation period on a case-by-case basis to prevent inequity, even when such period would otherwise have expired where extraordinary circumstances arise. *See Rouse v. Lee*, 339 F.3d 238, 246 (4th Cir. 2003); *accord Irwin v. Dept. of Veterans Affairs*, 498 U.S. 89, 96 (1990) (noting that equitable tolling is an extraordinary remedy to be applied only sparingly). Critically, tolling is only available to a party when, despite the exercise of due diligence, "extraordinary circumstances beyond [movant's] control prevented him from complying with the statutory time limit." *Rouse*, 339 F.3d at 246 (internal citations omitted). Moreover, "[t]he party seeking such relief bears the burden of proving that equitable tolling is warranted." *In re McConkey*, No. 08-25164, 2011 WL 1436431, at *5 n.11 (Bankr. D. Md. 2011). Notwithstanding that Appellant failed to raise the issue of equitable tolling in his Second Extension Motion, Appellant likewise failed to demonstrate any "circumstances external to [his] own conduct [whereby] it would be unconscionable to enforce the limitation period . . . and gross injustice would result." *In re Novak*, 580 B.R. 175, 179 (Bankr. D.S.C. 2017) (quoting *CVLR Performance Horses, Inc. v. Wynne*, 792 F.3d 469, 476 (4th Cir. 2015)). "Because errors of counsel are neither extraordinary nor external, equitable tolling is not available" to Appellant. *In re McConkey*, No. 08-25164, 2011 WL 1436431, at *7 (Bankr. D. Md. 2011). Accordingly, the doctrine of equitable tolling does not apply, and the Bankruptcy Court properly exercised its discretion in denying the Second Extension Motion and the subsequent Reconsideration Motion thereof.

The Court has reviewed the factual findings of the Bankruptcy Court for clear error and its legal conclusions *de novo*. Having reviewed the Bankruptcy Court's findings of fact, the Court cannot conclude that the Bankruptcy Court's factual findings are clearly erroneous.

Likewise, the Court has reviewed *de novo* the Bankruptcy Court's conclusions of law and finds no error as to either the applicable laws and legal principles or the Bankruptcy Court's application of those laws and legal principles to the facts, as the Bankruptcy Court found them.

For all of these reasons, it is hereby

ORDERED that the Bankruptcy Court's July 16 and July 18 Orders Denying Debtor's Second Motion to Extend Exclusivity Period to File Plan of Reorganization be, and the same hereby are, AFFIRMED; and it is further

ORDERED that this bankruptcy appeal be, and the same hereby is, DISMISSED.

The Clerk is directed to forward copies of this Order to all counsel of record and to Appellant at the address provided.

/s/
Anthony J. Trenga
United States District Judge

Alexandria, Virginia
September 26, 2019

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:	
Philip Jay Fetner	**Case No. 17-13036-KHK**
	Chapter 11
Debtor.	

ORDER OF CONVERSION FROM CHAPTER 11 TO CHAPTER 7

Upon the Motion of the Acting United States Trustee to Convert to a Chapter 7, good cause having been shown, and for the reasons stated by the Court on the record at the hearing held on June 11, 2019, it is hereby

ORDERED that:

1. This case is converted to one under chapter 7 of title 11 of the United States Code;

2. The Debtor(s) in the chapter 11 case shall file with the Court a final report and account as required by Bankruptcy Rule 1019(5) and Local Rule 1017-1(D) within **thirty (30) days** of the entry of this order, with a copy to be mailed to the United States Trustee;

3. The Debtor(s) shall file with the Court within **fourteen (14) days** after the conversion of this case as applicable, either:

(a) a schedule of unpaid debts incurred after the commencement of the original case, and a list of creditors in the format required by the Clerk's Office, or

(b) a certification that no unpaid debts have been incurred since the commencement of this case.

4. The Debtor(s), pursuant to Local Bankruptcy Rule 1017-1(C), shall file with the Court within **fourteen (14) days** after the conversion of this case a Chapter 7 Statement of Your Current Monthly Income, Official Form 122A-1.

5. The Debtor(s), pursuant to Federal Rule of Procedure 1019(1)(B), shall file with the Court a Statement of Intention with respect to secured property, if required, within **thirty (30) days** of the entry of this order or before the first date set for the meeting of creditors in the converted case, whichever is earlier.

6. The Debtor(s) shall appear and testify, at the date and time set by the Clerk of this Court, at the section 341 meeting of creditors in the converted case.

It is further ORDERED that the automatic dismissal provisions of the local rules shall not apply to this converted case, and failure of the debtor to abide by terms of this Order may result in the issuance of an Order to Show Cause directed to the debtor and principals of the debtor.

The Clerk shall forward a copy of this order to the debtor, the attorney for the debtor, the chapter 11 trustee, if any, and the United States Trustee.

Jun 21 2019
DATE

/s/ Klinette Kindred
KLINETTE H. KINDRED,
United States Bankruptcy Judge

Entered on Docket: June 24, 2019

I ask for this:

JOHN P. FITZGERALD, III
Acting United States Trustee
For Region Four

By: */s/ Joseph A. Guzinski*
Joseph A. Guzinski
Assistant United States Trustee
Office of the U.S. Trustee
1725 Duke Street, Suite 650
Alexandria, Virginia 22314
(703) 557-7274

Seen and objected to:

PHILIP JAY FETNER

By: */s/ John T. Donelan (by permission)*
John T. Donelan
Law Office of John T. Donelan
125 S. Royal Street
Alexandria, Virginia 22314
(703) 684-7555

Copies To:

Serve Electronically:

United States Trustee: ustpregion04.ax.ecf@usdoj.gov; joseph.a.guzinski@usdoj.gov,

John T. Donelan, Counsel for Debtor: donelanlaw@gmail.com

Serve by Mail:

Philip Jay Fetner
7476 Stoney Hill Lane
The Plains, VA 20198
Debtor

All creditors on mailing matrix

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:	
Philip Jay Fetner	**Case No. 17-13036-KHK**
	Chapter 11
Debtor.	

ORDER OF CONVERSION FROM CHAPTER 11 TO CHAPTER 7

Upon the Motion of the Acting United States Trustee to Convert to a Chapter 7, good cause having been shown, it is hereby

ORDERED that:

1. This case is converted to one under chapter 7 of title 11 of the United States Code;

2. The Debtor(s) in the chapter 11 case shall file with the Court a final report and account as required by Bankruptcy Rule 1019(5) and Local Rule 1017-1(D) within **thirty (30) days** of the entry of this order, with a copy to be mailed to the United States Trustee;

3. The Debtor(s) shall file with the Court within **fourteen (14) days** after the conversion of this case as applicable, either:

(a) a schedule of unpaid debts incurred after the commencement of the original case, and a list of creditors in the format required by the Clerk's Office, or

(b) a certification that no unpaid debts have been incurred since the commencement of this case.

4. The Debtor(s), pursuant to Local Bankruptcy Rule 1017-1(C), shall file with the Court within **fourteen (14) days** after the conversion of this case a Chapter 7 Statement of Your Current Monthly Income, Official Form 122A-1.

5. The Debtor(s), pursuant to Federal Rule of Procedure 1019(1)(B), shall file with the Court a Statement of Intention with respect to secured property, if required, within **thirty (30) days** of the entry of this order or before the first date set for the meeting of creditors in the converted case, whichever is earlier.

6. The Debtor(s) shall appear and testify, at the date and time set by the Clerk of this Court, at the section 341 meeting of creditors in the converted case.

It is further ORDERED that the automatic dismissal provisions of the local rules shall not apply to this converted case, and failure of the debtor to abide by terms of this Order may result in the issuance of an Order to Show Cause directed to the debtor and principals of the debtor.

The Clerk shall forward a copy of this order to the debtor, the attorney for the debtor, the chapter 11 trustee, if any, and the United States Trustee.

Jun 13 2019
DATE

/s/ Klinette Kindred
Klinette H. Kindred
United States Bankruptcy Judge

Entered on Docket: June 13, 2019

I ask for this:

JOHN P. FITZGERALD, III
Acting United States Trustee
For Region Four

By: */s/ Joseph A. Guzinski*
Joseph A. Guzinski
Assistant United States Trustee
Office of the U.S. Trustee
1725 Duke Street, Suite 650
Alexandria, Virginia 22314
(703) 557-7274

Copies To:

Serve Electronically:

United States Trustee: ustpregion04.ax.ecf@usdoj.gov; joseph.a.guzinski@usdoj.gov,
John T. Donelan, Counsel for Debtor: donelanlaw@gmail.com

Serve by Mail:

Philip Jay Fetner
7476 Stoney Hill Lane
The Plains, VA 20198
Debtor

All creditors on mailing matrix