

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
JESSE ANDREW PEREZ ) CASE NO. 07-12021  
AGATHA PEREZ )  
 )  
Debtors )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on November 27, 2007

In this chapter 13 case, the court is scheduled to consider the issues raised by the Trustee's motion to dismiss on December 18, 2007. Notice of that hearing has been served upon all creditors and parties in interest. Debtors' counsel has recently filed a motion to continue the hearing because she will be out of town at that time. The motion goes on to represent that the debtors do not oppose the dismissal and that, on November 15, 2007, they filed a response to the Trustee's motion indicating they had no objection to it.

In passing upon the present motion to continue the court notes two things: First, this case has always been pending under Chapter 13 of United States Bankruptcy Code and the debtors have an absolute right to dismiss it. 11 U.S.C. § 1307(b). Second, the purpose of a hearing is to provide an opportunity to resolve disputes concerning the law, the facts, or the outcome of a particular matter. Absent a dispute concerning one or more of these three things, a hearing serves little purpose. Given what has been filed thus far, there is no dispute concerning any of these things in this case: the Trustee has alleged that cause exists to dismiss the case, the debtors acknowledge that fact and have indicated they have no objection to the court doing so. Under these circumstances the only reason to hold a hearing on the Trustee's motion is because the Bankruptcy Code and the

applicable rules of procedure require it. See e.g., 11 U.S.C. § 1307(c). Since the outcome of the hearing would seem to be a foregone conclusion, the court sees no reason to continue it because doing so would only delay a case which is already reached the end of its useful life. Although the court appreciates counsel's apparent desire to attend the hearing, it sees no reason that she would have to do so. She is not the movant and, as a result, she is not the one whose filing has prompted the court to set the hearing. Cf., In re Martin, 350 B.R. 812, 816 (Bankr. N.D. Ind. 2007); In re Philbert, 340 B.R. 886, 891(Bankr. N.D. Ind. 2006) ("Absent a concrete understanding with opposing counsel as to what [the court's] ruling should be . . . an attorney needs to appear for proceedings they are responsible for having initiated.").

The debtors have no objection to the Trustee's motion to dismiss and none of the facts which appear in either the motion or the debtors' response give the court any reason to believe that the outcome of the hearing would be anything other than what the Trustee apparently seeks – a dismissal without prejudice. See, 11 U.S.C. § 349(a)(Unless the court orders otherwise, the dismissal of a case is without prejudice.). Under these circumstances, the court sees no reason to delay that result and debtors' motion to continue the hearing scheduled for December 18, 2007, is DENIED.

SO ORDERED.

/s/ Robert E. Grant  
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Judge, United States Bankruptcy Court