

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF LOUISIANA

IN RE:

HENRY LEONARD BLAKES, JR.
DEBTOR

CASE NO. 20-10024
CHAPTER 13

REASONS FOR DECISION

Debtor Henry Leonard Blakes, Jr. moves to reconsider dismissal of his case [P-26]. The motion typically would be heard and ruled on in open court on April 15, 2020. However, given the closure of the courthouse due to the COVID-19 pandemic, no argument will take place, and the court will rule based on the parties' submissions. The debtor's motion is denied.

The debtor filed a chapter 13 bankruptcy petition on January 10, 2020. His meeting of creditors pursuant to 11 U.S.C. §341 was scheduled for March 2, 2020, but the debtor failed to attend. The court then dismissed the case for failure to attend the meeting of creditors in accordance with Local Rule 2003-1(d), which provides that "[a] debtor's failure to attend the meeting of creditors may be grounds for immediate dismissal."

Motions for reconsideration filed no later than fourteen days after entry of judgment are treated as motions for new trial or motions to alter or amend a judgment pursuant to Federal Rule of Civil Procedure 59, made applicable in bankruptcy court by Federal Rule of Bankruptcy Procedure 9023.¹

Although a court may grant a new trial "for any reason for which a rehearing has [] been granted in a suit in equity in federal court,"² reconsideration "is an extraordinary remedy that

¹ *Abraham v. Aguilar (In re Aguilar)*, 861 F.2d 873, 875 (5th Cir. 1988).

² Fed. R. Civ. P. 59(a)(1)(B).

should be used sparingly."³ "Among the grounds for a new trial are that the verdict is against the weight of evidence, that the damages are excessive, or that for other reasons the trial was not fair."⁴

Bankruptcy Code §341 commands a debtor's attendance at the meeting of creditors:

The primary purpose of the § 341 meeting is the examination of the debtor. The § 341 meeting permits the creditors to rigorously question the debtor on issues relating to dischargeability, estate administration, and the debtor's financial affairs. The meeting also allows the trustee to query about possible recoveries under the avoiding powers. Thus, the debtor's presence at the § 341 meeting is not merely ceremonial, but instead plays a pivotal role in providing the creditors and the trustee with valuable information regarding the debtor's financial situation.⁵

The debtor's reason for failing to attend his meeting of creditors is simply that he forgot.

His memory lapse is not a basis for reconsidering dismissal.

Courts do not grant new trials unless it is reasonably clear that prejudicial error has crept into the record or that substantial justice has not been done, and the burden of showing harmful error rests on the party seeking the new trial.⁶

The debtor has not shown prejudicial error or that substantial justice has not been done.

The fault is his own. The debtor's motion to reconsider dismissal is denied. The court will enter a separate order in accordance with these reasons.

Baton Rouge, Louisiana, April 14, 2020.

s/ Douglas D. Dodd
DOUGLAS D. DODD
UNITED STATES BANKRUPTCY JUDGE

³ *Templet v. HydroChem Inc.*, 367 F.3d 473, 479 (5th Cir. 2005) (citation omitted).

⁴ *Hermann v. Nicor Marine, Inc.*, 664 F.Supp. 241, 244 (E.D.La. 1985) (citing *Montgomery Ward and Co. v. Duncan*, 311 U.S. 243, 251, 61 S.Ct. 189, 85 L.Ed. 147 (1940)).

⁵ *In re Moore*, 309 B.R. 725, 726 (Bankr. N.D. Tex. 2002).

⁶ *Jones v. Ruiz*, 478 F. App'x 834, 835 (5th Cir. 2012) (quoting *Sibley v. Lemaire*, 184 F.3d 481, 487 (5th Cir.1999)).

Notice Recipients

District/Off: 053N-3

User: csmi

Date Created: 4/14/2020

Case: 20-10024

Form ID: pdf802

Total: 43

Recipients of Notice of Electronic Filing:

tr	Annette C. Crawford	crawfordtrustee@annettecrawford.com
aty	Herschel C. Adcock, Jr.	bknotices@hca.law
aty	Rena L. Hester	renahester@bellsouth.net

TOTAL: 3

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Henry Leonard Blakes, Jr.	11610 Fair Oak Avenue	Baton Rouge, LA 70815
cr	U.S. Bank National Association	4801 Frederica Street	Owensboro, KY 42301
1976489	AT&T	c/o Bankruptcy 4331 Communications Dr. 4th FL W	Dallas, TX 75211
1984800	AT&T CORP	by American InfoSource as agent	PO Box 5072 Carol Stream, IL 60197-5072
1976486	Ad Astra Recovery Service	7330 W 33rd Street North	Wichita, KS 67205
1976487	Advanced Surgical Concepts, LLC	USPI 15305 Dallas Parkway No. 1600	Addison, TX 75001
1976488	Amerinat	8121 E Florence Ave	Downey, CA 90240
1976490	Caine Weiner	P. O. Box 55848	Sherman Oaks, CA 91413
1976491	Capital One Auto Finance	Credit Bureau Dispute	Plano, TX 75025
1977111	Capital One Auto Finance, a division of	AIS Portfolio Services, LP	4515 N Santa Fe Ave. Dept. APS Oklahoma City, OK 73118
1981445	Capital One Auto Finance, a division of Capital On	P.O. Box 4360	Houston, TX 77210
1976492	Capital One Bank USA NA	P.O. Box 85057	Richmond, VA 23285
1976493	Cash Central	5165 Emerald Parkway, Suite 100	Dublin, OH 43017
1976494	Credit One Bank	P.O. Box 98873	Las Vegas, NV 89193
1976495	DIRECT TV	PO BOX 78626	Phoenix, AZ 85062
1976496	DIRECTV LLC	ATTN BANKRUPTCIES	P O Box 6550 Greenwood Village, CO 80155-6550
1976485	DISTRICT COUNSEL	Internal Revenue Service	P O Box 30509 New Orleans, LA 70190
1976497	Franklin Collection Service	2978 W Jackson Street	Tupelo, MS 38803
1976498	Herschel C. Adcock, Jr. LLC	Attorney Alicia Cook	13541 Tiger Bend Road Baton Rouge, LA 70817
1976483	Internal Revenue Service	Central Insolvency Operations	P O Box 7346 Philadelphia, PA 19101-7346
1976500	LVNV Funding LLC	Resurgent Capital Services	P O Box 10587 Greenville, SC 29603-0587
1976499	Lake After Hours	10319 Jefferson Hwy.	Baton Rouge, LA 70809
1976481	Louisiana Department of Revenue	Bankruptcy Section	P. O. Box 66658 Baton Rouge, LA 70896-6658
1976482	Office of the U. S. Attorney	Middle District of Louisiana	777 Florida Street Baton Rouge, LA 70801-1717
1976484	Office of the U. S. Trustee, Region V	400 Poydras Street, Suite 2110	New Orleans, LA 70130-3238
1976501	Portfolio Recovery Associates	120 Corporate Blvd Ste 100	Norfolk, VA 23502
1976502	Progressive Insurance	The Progressive Corporation	6300 Wilson Mills Road Cleveland, OH 44143
1976503	Quick Cash	9705 Florida Blvd #10	Baton Rouge, LA 70815
1976504	Sequium Asset Solution	1130 Northchase Pkwy	Marietta, GA 30067
1976506	Speedy Cash	10828 Florida Blvd	Baton Rouge, LA 70815
1976505	Speedy Cash	Attn. Bankruptcy Department	Post Office Box 780408 Wichita, KS 67278
1977011	Speedy/Rapid Cash	P.O. Box 780408	Wichita, KS 67278
1976507	Telerecovery	3800 Florida Bv	Kenner, LA 70062
1976508	Transfinancial Companies	P. O. Box 80103	Baton Rouge, LA 70898
1976509	U.S. Bank Home Mortgage	4801 Frederica St.	Owensboro, KY 42301
1978777	U.S. Bank National Association	4801 Frederica Street	Owensboro, KY 42301
1978778	U.S. Bank National Association	c/o Ms. Alicia B. Cook	LAW OFFICES OF HERSCHEL C. ADCOCK, JR. P.O. Box 87379 Baton Rouge, Louisiana 70879-8379
1985301	U.S. Bank National Association	c/o U.S. Bank Home Mortgage,	a division of U.S. Bank N.A. 4801 Frederica Street Owensboro, Kentucky 42301
1976510	Verizon	Verizon Wireless Bankruptcy Admin	500 Technology Dr Ste 500 Weldon Springs, MO 63304
1976511	Verizon Wireless Bankruptcy Admin	500 Technology Dr. Suite 550	Saint Charles, MO 63304

TOTAL: 40