

AUG 15 2016

NOT FOR PUBLICATION

SUSAN M. SPRUAL, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

5	In re:	)	BAP No. NC-15-1257-JuKiTa
6	PREETINDER KAUR HUNDAL,	)	Bk. No. 15-42136
7	Debtor.	)	
8	<hr/> PREETINDER KAUR HUNDAL,	)	
9	Appellant,	)	
10	v.	)	<b>MEMORANDUM*</b>
11	MARTHA G. BRONITSKY,	)	
12	Chapter 13 Trustee,**	)	
13	Appellee.	)	

Submitted Without Oral Argument  
on July 28, 2016\*\*\*

Filed - August 15, 2016

Appeal from the United States Bankruptcy Court  
for the Northern District of California

Honorable Roger L. Efremsky, Bankruptcy Judge, Presiding

Appearances: Appellant Preetinder Kaur Hundal pro se on brief.

Before: JURY, KIRSCHER, and TAYLOR, Bankruptcy Judges.

\* This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8024-1.

\*\* Appellee chapter 13 trustee, Martha G. Bronitsky, has not participated in this appeal.

\*\*\* By order entered on January 26, 2016, a motions panel determined this appeal suitable for submission on the brief and record without oral argument.

1 Appellant debtor, Preetinder Kaur Hundal, appeals from the  
2 bankruptcy court's order dismissing her chapter 13<sup>1</sup> case. For  
3 the reasons set forth below, we AFFIRM.

4 **I. FACTS<sup>2</sup>**

5 Debtor filed her pro se chapter 13 petition on July 7,  
6 2015. Judge Efremsky was assigned to her case, and Martha G.  
7 Bronitsky was appointed the chapter 13 trustee (Trustee).

8 In her petition, debtor listed prior chapter 13 cases filed  
9 in 2008 and 2010 in which she was a joint debtor with her  
10 husband Nishan Singh Hundal (Husband). Those cases were  
11 dismissed for failure to make plan payments. Not listed in her  
12 petition was a chapter 13 case debtor filed individually in  
13 November 2012, which was dismissed in October 2014 for failure  
14 to make plan payments. Also not listed was another chapter 13  
15 case Husband had filed individually in August 2012, which was  
16 dismissed in May 2013 for failure to make plan payments. In  
17 addition, debtor did not disclose that Husband had a chapter 13  
18 case pending before Judge Lafferty.<sup>3</sup>

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19  
20 <sup>1</sup> Unless otherwise indicated, all chapter and section  
21 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532, and  
22 "Rule" references are to the Federal Rules of Bankruptcy  
Procedure.

23 <sup>2</sup> Debtor provided only the order appealed from in her  
24 excerpts of record. Accordingly, we have exercised our  
25 discretion to independently review several electronically filed  
26 documents in debtor's underlying bankruptcy case in order to  
develop a fuller understanding of the record. See O'Rourke v.  
Seaboard Sur. Co. (In re E.R. Fegert, Inc.), 887 F.2d 955, 957-58  
(9th Cir. 1989).

27 <sup>3</sup> In addition to these cases, debtor and her spouse filed a  
28 (continued...)

1 On July 8, 2015, the bankruptcy court issued an "Order To  
2 File Required Documents Notice Re Automatic Dismissal," which  
3 ordered debtor to file missing schedules and other documents  
4 within fourteen days of the order (July 8 Order).<sup>4</sup> The missing  
5 schedules and other documents included Schedules I and J  
6 (Official Form 6), a declaration concerning her schedules  
7 (Official Form 6), and a statement of current monthly income and  
8 calculation of commitment period and disposable income (B22C).  
9 Unless debtor received a court order extending the time for her  
10 to file these documents, the July 8 Order stated that the court  
11 would dismiss her case without further notice or hearing if the  
12 documents were not timely filed. The docket entry shows that  
13 the deadline for filing the documents was July 22, 2015.

14 On July 15, 2015, debtor filed an ex parte request for an  
15 extension of time to file the documents. A secured creditor,  
16 Alice Walker (Creditor), opposed the request. Creditor had  
17 filed a motion for relief from stay to foreclose on debtor's and  
18 Husband's residence in the related chapter 13 case pending  
19 before Judge Lafferty. Creditor informed Judge Efremsky that

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20 <sup>3</sup>(...continued)  
21 chapter 11 petition on behalf of their business, Tip Top  
22 Novelties, on September 19, 2011. That case was dismissed on  
23 October 29, 2011. Tip Top Novelties subsequently filed a  
24 petition under chapter 7 on November 29, 2011. The  
25 non-residential landlord was granted relief from the automatic  
stay on January 24, 2012. The bankruptcy court entered a Final  
Decree on April 4, 2012.

26 <sup>4</sup> The notice also contained a forty-five day deadline which  
27 provided for automatic dismissal pursuant to § 521(i). That  
28 deadline is not relevant in this appeal since the bankruptcy  
court dismissed the case prior to the final day of the forty-five  
day deadline.

1 she sought in rem relief as to the property due to multiple and  
2 serial filings by debtor and Husband. Creditor also asserted  
3 that it appeared debtor intentionally failed to list Husband's  
4 case in her petition and that at the in rem relief from stay  
5 hearing, which was heard one day after debtor filed her  
6 petition, Husband did not notify Judge Lafferty or Creditor's  
7 counsel that his wife had filed a new case the day before.

8 Creditor further asserted that Husband told Judge Lafferty  
9 that the California state court had granted a stay as to his and  
10 debtor's obligations to make payments to her. However, no such  
11 stay as to payments had been entered. Instead, only a temporary  
12 restraining order (TRO) impacting her ability to foreclose had  
13 been entered. The TRO was dissolved when debtor and Husband  
14 failed to make the required payments. Judge Lafferty continued  
15 the relief from stay hearing to July 22, 2015, and ordered  
16 Husband to provide evidence of a stay by July 15, 2015.  
17 However, prior to the July 22, 2015 hearing date, the court  
18 dismissed Husband's chapter 13 case for failure to make plan  
19 payments. Finally, Creditor requested that debtor's case be  
20 assigned to Judge Lafferty.

21 On July 17, 2015, Judge Efremsky denied debtor's request  
22 for an extension of time.

23 Thereafter, Trustee filed a motion to dismiss debtor's case  
24 on bad faith grounds under § 1307(c) due to her multiple  
25 bankruptcy filings, all of which had been dismissed. Trustee  
26 further requested the court to bar debtor from filing any  
27 bankruptcy case for a period of twelve months.

28 On July 24, 2015, debtor filed a summary of schedules,

1 Schedules A, B, C, I and J, and the chapter 13 calculation of  
2 disposable income on Form B22C. She did not file a declaration  
3 concerning her schedules (Official Form 6). On the same day,  
4 debtor filed opposition to Creditor's request to transfer the  
5 case to Judge Lafferty.

6 On July 28, 2015, Judge Efremsky signed an order dismissing  
7 debtor's case because she failed to comply with his July 8 Order  
8 (Dismissal Order). The record shows that debtor filed most of  
9 the documents late and never filed a declaration concerning her  
10 schedules. In the Dismissal Order, the court retained  
11 jurisdiction to hear and resolve Trustee's motion to dismiss and  
12 the bar to refiling, which was set for hearing on August 18,  
13 2015. The Dismissal Order also barred debtor from filing any  
14 bankruptcy case prior to the August 18, 2015 hearing. The court  
15 entered the Dismissal Order on July 29, 2015.

16 On July 30, 2015, debtor filed her notice of appeal pro se.

17 Meanwhile, Trustee's motion to dismiss was continued from  
18 August 18, 2015 to April 19, 2016. On April 6, 2016, Trustee  
19 withdrew her motion to dismiss, filed her final report and was  
20 discharged.

## 21 **II. JURISDICTION**

22 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.  
23 §§ 1334 and 157(b)(2)(A). We have jurisdiction under 28 U.S.C.  
24 § 158.

## 25 **III. ISSUE**

26 Did the bankruptcy court abuse its discretion in dismissing  
27 debtor's case?

1 **IV. STANDARD OF REVIEW**

2 We review an order dismissing a chapter 13 bankruptcy case  
3 for abuse of discretion. Brown v. Sobczak (In re Sobczak),  
4 369 B.R. 512, 516 (9th Cir. BAP 2007).

5 To determine whether the bankruptcy court abused its  
6 discretion, we conduct a two-step inquiry: (1) we review de novo  
7 whether the bankruptcy court "identified the correct legal rule  
8 to apply to the relief requested" and (2) if it did, whether the  
9 bankruptcy court's application of the legal standard was  
10 illogical, implausible or "without support in inferences that  
11 may be drawn from the facts in the record." United States v.  
12 Hinkson, 585 F.3d 1247, 1261-62 (9th Cir. 2009) (en banc).

13 **V. DISCUSSION**

14 Debtor filed an "opening brief" on September 25, 2015, and  
15 another document labeled as a "brief" on December 18, 2015.  
16 In both, debtor maintains that Judge Lafferty "cancelled" or  
17 ordered her bankruptcy to be dismissed on July 29, 2015, and  
18 that he was not "her judge." She also complains that she was  
19 not given a chance to explain her case before Judge Efremsky so  
20 she filed an appeal.

21 Although we liberally construe debtor's briefs due to her  
22 pro se status, Kashani v. Fulton (In re Kashani), 190 B.R. 875,  
23 883 (9th Cir. BAP 1995), these claims have no merit.  
24 Judge Efremsky signed the order dismissing debtor's case based  
25 upon her failure to comply with the July 8 Order. That order  
26 gave debtor fourteen days to submit the missing schedules and  
27 documents. Although she moved for an extension of time to file  
28 the missing documents, the court denied her request. Without an

1 extension, the fourteen day period ran on July 22, 2015.<sup>5</sup>  
2 Debtor filed some of the missing documents on July 24, 2015, but  
3 never filed a declaration concerning her schedules (Official  
4 Form 6). The July 8 Order gave debtor notice that if she did  
5 not comply with the order, her case would be dismissed without  
6 further notice or a hearing. Since she did not comply, no  
7 hearing was necessary. In short, even liberally construed,  
8 debtor's "briefs" fail to present any facts or legal arguments  
9 that suggest the bankruptcy court abused its discretion in  
10 dismissing her case.

## 11 VI. CONCLUSION

12 For the reasons stated, we AFFIRM.

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19 <sup>5</sup> Rule 9006(a) provides in relevant part:

20 The following rules apply in computing any time period  
21 specified in these rules, in the Federal Rules of Civil  
22 Procedure, in any local rule or court order, or in any  
23 statute that does not specify a method of computing  
time.

24 (1) Period stated in days or a longer unit

When the period is stated in days or a longer unit of time:

25 (A) exclude the day of the event that triggers the period;

26 (B) count every day, including intermediate Saturdays,  
Sundays, and legal holidays; and

27 (C) include the last day of the period, but if the last  
day is a Saturday, Sunday, or legal holiday, the period  
28 continues to run until the end of the next day that is  
not a Saturday, Sunday, or legal holiday.