

Reschedule trial
Adequate cause

Josiah Ryan Pfannenstiel, Adversary No. 09-3280-rld
In re Pfannenstiel, Case No. 09-31350-rld7

07/23/2010 RLD

Unpub.

The pro se debtor initiated a complaint to discharge his student loan debt. A trial was set for July 19, 2010 at 1:30 p.m. On May 28, 2010, the bankruptcy court entered a scheduling order setting the trial date and time.

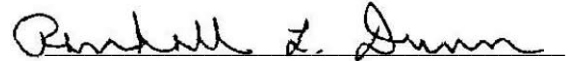
The bankruptcy court held the trial on July 19, 2010. The defendant appeared. The bankruptcy court waited 15 minutes after the scheduled trial time to take the bench in order to provide the debtor with more time to arrive if he was late. The debtor did not appear. The debtor did not notify the bankruptcy court or the defendant that he had a scheduling conflict and might not be able to attend. The debtor also did not move to reschedule the trial prior to the trial date.

One day after the trial, the debtor filed a letter which the bankruptcy court treated as a motion, asking that the bankruptcy court reset the trial. The debtor explained that he could not attend the trial because he was obligated to attend a meeting he could not "get out of in a timely manner." The debtor gave no further explanation.

The bankruptcy court denied the debtor's motion, determining that, under the circumstances, the debtor did not provide adequate cause to grant his motion to reset the trial.

P10-3(3)

Below is an Opinion of the Court.



RANDALL L. DUNN
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

11	In Re:)	
12	JOSIAH RYAN PFANNENSTIEL,)	Bankruptcy Case
13)	No. 09-31350-rld7
14	Debtor.)	
15	_____)	
16	JOSIAH RYAN PFANNENSTIEL,)	
17)	Adv. Proc. No. 09-03280-rld
18	Plaintiff,)	
19	v.)	
20)	MEMORANDUM RE: DEBTOR'S MOTION TO
21	ECMC,)	RESET TRIAL
22	Defendant.)	
23	_____)	

On July 19, 2010, the Court held the trial on the debtor's complaint to discharge his student loan debts. The debtor did not appear at the trial. The day after the trial, the debtor filed a letter that the Court will treat as a motion ("motion") asking that the Court reset the trial. In the motion, the debtor explained that he was unable to attend the trial because he was "obligated" to attend a meeting that he "could not get out of in a timely manner."

1 The Court has recognized that the debtor is prosecuting this
2 adversary proceeding on his own, pro se. Based on the Court's review of
3 the record, the Court and the defendant, ECMC, have accommodated the
4 debtor in many ways to allow the matter to proceed to trial and to ensure
5 that the debtor is not handicapped by his pro se status.

6 The scheduling order entered on May 28, 2010 (docket #34),
7 clearly set forth the trial date and time and the deadline for the
8 submission of exhibits, any trial memoranda, and witness lists. Counsel
9 for ECMC complied with the deadlines in a timely manner and appeared at
10 the trial, driving from Salem to be present. The Court waited 15 minutes
11 after the scheduled trial time to take the bench, in order to give the
12 debtor time to arrive if he simply was late. The debtor did not appear
13 at the trial. He moreover notified neither the Court nor ECMC's counsel
14 that he had a scheduling conflict and might or would be unable to attend
15 the trial, and he did not move to reschedule the trial prior to the trial
16 date.

17 In his motion, he does not identify the nature of the conflict
18 that prevented him from attending the trial and further does not explain
19 why he did not at least take the time to call the Court and ECMC's
20 counsel to advise them that he had a potential conflict with the
21 scheduled trial date and time.

22 Under these circumstances, the debtor has not provided adequate
23 cause to grant his motion. The Court therefore denies the debtor's
24 motion and will enter an order accordingly.

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1 cc:

2 Josiah Ryan Pfannenstiel
3 Stephen Tweet

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