UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

January 30, 2017 at 1:30 p.m.

THIS CALENDAR IS DIVIDED INTO TWO PARTS. THEREFORE, TO FIND ALL MOTIONS AND OBJECTIONS SET FOR HEARING IN A PARTICULAR CASE, YOU MAY HAVE TO LOOK IN BOTH PARTS OF THE CALENDAR. WITHIN EACH PART, CASES ARE ARRANGED BY THE LAST TWO DIGITS OF THE CASE NUMBER.

THE COURT FIRST WILL HEAR ITEMS 1 THROUGH 8. A TENTATIVE RULING FOLLOWS EACH OF THESE ITEMS. THE COURT MAY AMEND OR CHANGE A TENTATIVE RULING BASED ON THE PARTIES' ORAL ARGUMENT. IF ALL PARTIES AGREE TO A TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS OF FACT AND CONCLUSIONS OF LAW.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING PURSUANT TO LOCAL BANKRUPTCY RULE 3015-1(c), (d) [eff. May 1, 2012], GENERAL ORDER 05-03, ¶ 3(c), LOCAL BANKRUPTCY RULE 3007-1(c)(2)[eff. through April 30, 2012], OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER. IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE FEBRUARY 27, 2017 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY FEBRUARY 13, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY FEBRUARY 21, 2017. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THE DATE AND TIME OF THE CONTINUED HEARING DATE AND OF THESE DEADLINES.

THERE WILL BE NO HEARING ON ITEMS 9 THROUGH 19 IN THE SECOND PART OF THE CALENDAR. INSTEAD, THESE ITEMS HAVE BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS; IF IT IS, IT INCLUDES THE COURT'S FINDINGS AND CONCLUSIONS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

IF THE COURT CONCLUDES THAT FED. R. BANKR. P. 9014(d) REQUIRES AN EVIDENTIARY HEARING, UNLESS OTHERWISE ORDERED, IT WILL BE SET ON FEBRUARY 6, 2017, AT 2:30 P.M.

Matters to be Called for Argument

1. 16-27818-A-13 ANDRE ABERNATHY — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 1-11-17 [21]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the motion to dismiss the case will be conditionally denied.

First, to pay the dividends required by the plan at the rate proposed by it will take 87 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Second, the plan fails to provide for the continuation of the ongoing mortgage installment in the first month of the plan. In so doing, the debtor is modifying a home loan in violation of 11 U.S.C. § 1322(b)(2) and because the plan does not provide for the later payment of that installment, it violates 11 U.S.C. § 1325(a)(5)(B) by not paying the claim in full.

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the debtor is unable to confirm a plan within a reasonable period of time, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If the debtor has not confirmed a plan within 75 days, the case will be dismissed on the trustee's ex parte application.

2. 16-28321-A-13 BENJAMIN/BRANDEE AHLSON — MOTION TO EXTEND AUTOMATIC STAY
DBL-1 — 12-21-16 [10]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied.

The motion represents that the debtor filed one prior case that was dismissed within 1 year of the current case. Therefore, the debtor asks for an extension of the automatic stay beyond the 30th day after the filing of the most recent case pursuant to 11 U.S.C. § 362(c)(3). Absent an extension, the automatic stay will expire on January 20, 2017.

This misrepresents the facts. The debtor filed two prior cases, Case Nos. 15-24644 and 16-25418. The former was dismissed on August 15, 2016 and the latter was dismissed on December 15, 2016. Hence, both were dismissed within one year

of the filing of the current case on December 20, 2016.

As a result, 11 U.S.C. § 362(c)(4), not section 362(c)(3) is applicable. There is no automatic stay in this case unless one is imposed by the court. Therefore, the court will deem the motion brought under section 362(c)(4).

A party in interest, including the debtor, may request that the court impose the automatic stay despite the filing and dismissal of multiple prior petitions. See 11 U.S.C. § 362(c)(4)(B). Such a request must be made with notice and a hearing and must be made within 30 days of the filing of the petition. To obtain the automatic stay, the party in interest must demonstrate that the latest case has been filed in good faith. If shown, the court may impose conditions on the imposition of the automatic stay.

This motion was made within 30 days of the filing of the current case. The issue is whether the case was filed in good faith. Section 362(c)(4)(D) invokes a presumption that the case was "filed not in good faith." The debtor has not explained why they failed to make plan payments in two prior cases and why they failed to attend the meeting of creditors in the second case. Absent a coherent explanation for these failures the court concludes that the debtor failed to obey court orders in the prior cases without any excuse. The court cannot conclude that this case is more apt to succeed than the prior two cases.

3. 16-26950-A-13 JEFFERY KAHN — OBJECTION TO CLAIM
DM-2
VS. LISA ANN LUCAS — 12-9-16 [26]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The claim will be allowed as explained below.

To the extent the objection asserts that the claim is not secured because the lien is avoidable pursuant to 11 U.S.C. § 522(f)(1)(A), the objection will be overruled. It is unnecessary to object on this basis. If a lien avoidance motion is granted, to the extent the judicial lien is avoided, the claim will be an unsecured claim, whether it may be priority or nonpriority, without the necessity of a claim objection.

The objection to the inclusion of $17,800 will be dismissed as moot. This is a debt owed in the first instance to Shirleyanne Lucas. While the claimant or the claimant's property may be secondary liable for the claim, the Ms. Lucas has filed a proof of claim on her own account and the claimant has not paid any part of the Ms. Lucas' claim. Consequently, because any claim for reimbursement or indemnity is contingent and because a proof of claim has been filed by Ms. Lucas, this aspect of the proof of claim filed by the claimant must be disallowed. See 11 U.S.C. § 502(e).

Nonetheless, because an amended proof of claim was filed after the objection which deletes this aspect of the claim, the objection to the $17,800 will be dismissed as moot.

The original objection's last point was that the claimant failed to give the debtor credit for all payments made to her. However, as noted in the response, there is no evidence of the amounts and dates of those payments in the original objection. In fact, the original proof of claim gave the debtor credit for $23,792.71 of pre-petition payments and the response to the objection

acknowledges a further $14,499 in payments from a third party.

With the $14,499 in post-petition payments, and the elimination of the $17,800 from the claim, the amount of the claim is reduced to $43,122.46. This is not inconsistent with the amended proof of claim which is in the amount of $57,621.46 because that is the amount owed on the petition date. This is the correct amount for inclusion in the proof of claim The $14,499 was received after the petition date. See 11 U.S.C. § 502(b) (in the event of an objection to a claim, the court "shall determine the amount of such claim . . . as of the date of the filing of the petition. . . ."). The debtor can insure that claim is paid no more than the amount demanded by providing for the post-petition, third-party in the plan and providing that the balance of the claim will be paid through the plan.

The objection asserts generally that there were other pre-petition payments not credited by the claimant. However, there is no admissible evidence of such in the objection. The reply to the opposition, however, included evidence of $8,698.74 in payments made after the July 11, 2016 memo of credits filed in state court. Given that the payments acknowledged in the proof of claim are those mentioned in the memo of credits, it appears the claimant has not given credit for these later payments.

Nonetheless, the court will not reduce the claim by $8,698.74 because evidence of these payments was not in the original objection. Hence, the claimant has not had notice of this objection is time to respond. This aspect of the objection will be overruled without prejudice.

The reply also raised an entirely new objection. It is asserted that the claimant has assigned the claim to a third party and therefore may no longer assert it on her own behalf. Again, because this objection was not raised in the original objection to the claim, the claimant was denied an opportunity to respond to it. This aspect of the objection will be overruled without prejudice.

At this time, therefore, the claim is allowed in the amount of $57,621.46 for which the claimant has received $14,499 since the case was filed. At present, and unless a lien avoidance motion under section 522(f)(1)(A) is successful, this claim is a secured claim. In the event the judicial lien is avoided, the claim is entitled to priority pursuant to 11 U.S.C. § 507(a)(1).

4. 16-26950-A-13 JEFFERY KAHN — MOTION TO AVOID JUDICIAL LIEN
DM-1
VS. LISA ANN LUCAS — 12-9-16 [21]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied without prejudice.

The motion is not accompanied by any admissible evidence as to the value of the property, the amount of the liens, or the debtor's exemption and entitlement to such exemption.

The only declaration filed is that of the debtor's attorney. None of the statements in that declaration are within the personal knowledge of the attorney.

And, while the declaration makes reference to the debtor's schedules, statements made by the debtor in the schedules are proof only that the statements are in the schedules. It is not proof of the matters asserted in the schedules. Rule 801(c) of the Federal Rules of Evidence1 provides that hearsay is an out of court statement offered to prove the truth of the matter asserted. Rule 802 provides that hearsay is not admissible. Consistent with the hearsay rule, statements contained in bankruptcy schedules are inadmissible. See e.g. Leslie v. Leslie, 181 B.R. 317, 322 (Bankr. N.D. Ohio 1995). When offered for the truth of the matter asserted, a debtor's statement in the bankruptcy schedules are hearsay and are not admissible.

The debtor attempted to remedy these problems by filing evidence with a reply to the respondent's opposition. Filing evidence after the deadline to oppose the motion is unfair and will not be permitted.

5. 16-26950-A-13 JEFFERY KAHN — MOTION TO CONFIRM PLAN
DM-3 — 12-9-16 [29]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the objection will be overruled.

The objecting creditor has filed a priority claim for a domestic support obligation. The plan estimates the claim at approximately $34,000 but the amended proof of claim demands approximately $44,000. The creditor therefore complains that the plan does not comply with 11 U.S.C. § 1322(a)(2) because its claim will not be paid in full.

However, the plan provides at section 2.04: "The proof of claim, not this plan or the schedules, shall determine the amount and classification of a claim unless the court's disposition of a claim objection, valuation motion, or lien avoidance motion affects the amount or classification of the claim."

And, section 2.13 provides that unsecured claims entitled to priority pursuant to 11 U.S.C. § 507. . . will be paid in full. . . ."

Hence, the plan will pay the amount demanded by the objecting creditor, not the amount estimated in the plan unless the court enters an order on an objection to the claim, in which case, the court's order will determine the amount.

6. 16-27762-A-13 YVONNE MANCILLA — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 1-11-17 [23]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because this hearing on an objection to the confirmation of the proposed chapter 13 plan and a motion to dismiss the case was set pursuant to the procedure required by Local Bankruptcy Rule 3015-1(c)(4), the debtor was not required to file a written response. If no opposition is offered at the hearing, the court will take up the merits of the objection. Below is the court's tentative ruling, rendered on the assumption that there will be no

opposition. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The objection will be sustained and the motion to dismiss the case will be conditionally denied.

First, the debtor has failed to make $2,750 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, even if the plan were current, the debtor has not proven the plan's feasibility. The debtor's boyfriend is contributing $2,500 to the debtor each month so she can pay expenses and make the plan payment. However, there is no proof in the record that the boyfriend has the ability or the inclination to contribute this sizeable sum each month.

Third, the HUD claim, which is not in default, is not modified by the plan, and does not require monthly plan payments, is misclassified in Class 1. It belongs in Class 4.

Fourth, Local Bankruptcy Rule 3015-1(b)(6) provides: "*Documents Required by Trustee*. The debtor shall provide to the trustee, not later than the fourteen (14) days after the filing of the petition, Form EDC 3-088, *Domestic Support Obligation Checklist,* or other written notice of the name and address of each person to whom the debtor owes a domestic support obligation together with the name and address of the relevant state child support enforcement agency (see 42 U.S.C. §§ 464 & 466), Form EDC 3-086, *Class 1 Checklist*, for each Class 1 claim, and Form EDC 3-087, *Authorization to Release Information to Trustee Regarding Secured Claims Being Paid By The Trustee*." Because the plan includes a class 1 claim, the debtor was required to provide the trustee with a Class 1 checklist. The debtor failed to do so.

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the debtor is unable to confirm a plan within a reasonable period of time, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If the debtor has not confirmed a plan within 75 days, the case will be dismissed on the trustee's ex parte application.

7. 15-26281-A-13 STEPHEN TRUMAN — STATUS CONFERENCE
15-2216 — 5-5-16 [30]
MGM GRAND HOTEL, L.L.C. V. TRUMAN

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Unless a dismissal is lodged prior to the hearing, appearances are required. It is the court's understanding that this proceeding has been settled yet no dismissal has been lodged.

8. 15-26281-A-13 STEPHEN TRUMAN
16-2004
PARTNERS FEDERAL CREDIT UNION
V. TRUMAN

STATUS CONFERENCE
4-18-16 [20]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Unless a dismissal is lodged prior to the hearing, appearances are required. It is the court's understanding that this proceeding has been settled yet no dismissal has been lodged.

FINAL RULINGS BEGIN HERE

9. 16-27628-A-13 ANDRE/CARLA MASURET — MOTION TO AVOID JUDICIAL LIEN
MJD-1
VS. M&H REALTY PARTNERS V, L.P. — 12-27-16 [19]

Final Ruling: This motion to avoid a judicial lien has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the trustee and the respondent creditor to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the trustee and the respondent creditor are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor in favor of Precision Recovery Analytics, Inc. for $6,351. An abstract of judgment was recorded. That lien attached to the debtor's home.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $505,900 as of the petition date. The unavoidable lien totaled $598,305.40 consisting of a single mortgage in favor of U.S. Bank. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $1,000 in Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

10. 12-28147-A-13 JUAN/LETICIA LUJAN — MOTION TO APPROVE LOAN MODIFICATION
PGM-4 — 12-28-16 [107]

Final Ruling: This motion to modify a home loan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(b) and 9014-1(f)(1), and Fed. R. Bankr. R. 2002(b). The failure of the trustee, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the sustaining of the objection. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the debtor, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The debtor is authorized but not required to enter into the proposed modification. To the extent the modification is inconsistent with the confirmed plan, the debtor shall continue to perform the plan as confirmed until it is modified.

11. 12-28147-A-13 JUAN/LETICIA LUJAN
PGM-5

MOTION TO APPROVE COMPENSATION OF DEBTORS' ATTORNEY
12-28-16 [112]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Fed. R. Bankr. R. 2002(a)(6). The failure of the trustee, the debtor, the United States Trustee, the creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion seeks approval of $2,760 in additional fees incurred principally in connection with the modification of a home loan and related motion to modify the plan. The foregoing represents reasonable compensation for actual, necessary, and beneficial services rendered to the debtor. Any retainer may be drawn upon and the balance of the approved compensation is to be paid through the plan in a manner consistent with the plan and Local Bankruptcy Rule 2016-1, if applicable.

12. 16-22958-A-13 KELLY TIMOTHY
MMM-3

MOTION TO MODIFY PLAN
12-22-16 [56]

Final Ruling: This motion to confirm a modified plan proposed after confirmation of a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2) and 9014-1(f)(1) and Fed. R. Bankr. R. 3015(g). The failure of the debtor, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the trustee, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The modified plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.

13. 15-25365-A-13 DEA MCKEE
MC-2

MOTION TO MODIFY PLAN
12-21-16 [48]

Final Ruling: This motion to confirm a modified plan proposed after confirmation of a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2) and 9014-1(f)(1) and Fed. R. Bankr. R. 3015(g). The failure of the debtor, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the trustee, an actual hearing is unnecessary. See Boone v. Burk

(In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The modified plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.

14. 16-26969-A-13 JAMES DADE — MOTION TO CONFIRM PLAN
JDJ-1 — 12-20-16 [28]

Final Ruling: The motion will be dismissed without prejudice. A review of the certificate of service for the motion and the plan indicates that one creditor was served with the motion and the plan. However, the master address list filed by the debtor indicates that he has eight creditors. All must be served. See Fed. R. Bankr. P. 2002(b).

15. 13-22074-A-13 DAVID/CATHERINE CHERRY — MOTION TO ALLOW FURTHER ADMINISTRATION OF THE CASE UNDER FRBP 1016
MET-2 — 12-26-16 [42]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the trustee and the respondent creditor to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the trustee and the respondent creditor are entered and the matter will be resolved without oral argument.

The motion will be granted.

Debtor David Cherry died on December 7, 2015. Prior to his death, the debtors confirmed but have not yet completed a plan. Neither debtor has filed a financial management certificate. See 11 U.S.C. §§ 110, 111, 1328(g)(1) and Fed. R. Bankr. P. 1007(c). When the plan has been completed, the co-debtor, Catherine Cherry is authorized pursuant to Local Bankruptcy Rule 1016-1 to file the case-ending documents required by Local Bankruptcy Rules 1007(c) and 5009-1 although the requirement of a financial management certificate for Mr. Cherry will be waived. The clerk shall enter the discharge of both debtors when the co-debtor is otherwise entitled to a discharge.

16. 15-26281-A-13 STEPHEN TRUMAN — OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-9-16 [52]

Final Ruling: No appearances. The objection is moot because the case has been dismissed.

17. 15-26281-A-13 STEPHEN TRUMAN — MOTION TO DISMISS CASE
MRL-4 — 7-1-16 [169]

Final Ruling: No appearances. The case has been dismissed.

18. 16-26589-A-13 KAREN LAVOW
MET-3

MOTION TO CONFIRM PLAN
12-19-16 [41]

Final Ruling: This motion to confirm a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1), and Fed. R. Bankr. R. 2002(b). The failure of the trustee, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the debtor, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.

19. 16-22291-A-13 CHRISTOPHER DILLER
TLA-1

MOTION TO MODIFY PLAN
12-22-16 [33]

Final Ruling: This motion to confirm a modified plan proposed after confirmation of a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2) and 9014-1(f)(1) and Fed. R. Bankr. R. 3015(g). The failure of the debtor, the U.S. Trustee, creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the trustee, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

The motion will be granted. The modified plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.