2 **UNITED STATES BANKRUPTCY COURT**
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

April 9, 2018 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 10. 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 MAY 21, 2018 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY MAY 7, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY MAY 14, 2018. 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 11 THROUGH 21 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 APRIL 16, 2018, AT 2:30 P.M.

Matters to be Called for Argument

1. 13-35100-A-13 DAO-2 — WILLIAM SANDBANK — MOTION TO PURCHASE OF REAL PROPERTY 2-28-18 [48]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied.

In violation of Local Bankruptcy Rule 3015-1(b)(1) & (2), as well as the debtor's confirmed plan, the debtor purchased real property, and borrowed money in order to purchase it, without court permission. He now asks the court to approve it.

There is no obvious reason the court should approve the transaction after the fact. This is particularly so when the debtor acknowledges borrowing more than the property is worth and when the property is not producing sufficient income to pay the secured debt. Approving the purchase and loan in these circumstances may burden the estate since post-petition consumer debts can become an obligation of the bankruptcy estate. See 11 U.S.C. § 1305(a)(2) & (c).

2. 13-35100-A-13 DAO-3 — WILLIAM SANDBANK — MOTION TO APPROVE TRANSFER TO LENDER 2-28-18 [53]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted.

Even though the court did not approve the post-petition secured loan encumbering property purchased post-petition, it will permit the lender either to foreclose on its collateral or to accept a deed in lieu of foreclosure from the debtor and the nondebtor spouse. The subject property does not produce net income for the estate and it is unnecessary to the completion of the plan.

3. 12-40002-A-13 PGM-1 — STEVEN FERREIRA AND ARACELI BURCIAGA — MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT 2-26-18 [94]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be dismissed,

On January 25, 2018, and pursuant to Fed. R. Bankr. P. 3002.1(f), the trustee filed and served a Notice Final Cure Payment. By this notice, the trustee informed the debtor and Wells Fargo Bank that the debtor had cured a pre-petition default of $1,358.98 on a home mortgage and maintained ongoing mortgage payments through the confirmed plan.

On that same date the trustee filed and served a second Notice of Final Cure Payment indicating that the debtor had also cured another default of $3,846.35

through the confirmed plan. It appears that this default was a post-petition default.

These notices required that Wells Fargo Bank, within 21 days after the service of the notices, file and serve a statement indicating (1) whether it agreed that the debtor had cured the defaults and (2) whether the debtor was otherwise current on all ongoing installment payments as required by 11 U.S.C. § 1322(b)(5). See Fed. R. Bankr. P. 3002.1(g).

A review of the docket shows that on February 20 Wells Fargo filed a timely response to the notices. In its response, Wells Fargo agreed that the pre-petition arrears had been cured but that all post-petition installments had not been paid. A total $3,064.12 was due. This amount represents post-petition installments first due on December 1, 2017.

However, inasmuch as the plan was completed on November 29, 2017 (as is reflected in both the plan and the trustee's final report and account filed on February 7, 2018), it appears that Wells Fargo's response means that the debtor failed to begin making direct mortgage payments once the plan had been completed. December 2017 is outside the scope of the plan and the trustee's accounting.

Under Fed. R. Bankr. P. 3002.1(h), the debtor and the trustee had 21 days after service of Wells Fargo's February 20 response to the notices in order to ask the court to determine whether the pre-petition default had been cured and all mortgage installments due on or before November 29, 2017 had been paid to Wells Fargo. On February 26, 2018, the debtor filed a timely request for this determination.

While there clearly is a dispute between the debtor and Wells Fargo concerning the payments made on and after December 2017, that dispute has nothing to do with the plan and its performance by the debtor and its execution by the trustee. All parties agree the pre-petition arrears were cured. Likewise, all parties appear to agree that all post-petition mortgage installments due through November 2017 were paid. Any subsequent installments is beyond the purview of the court.

There also is a dispute as to whether the debtor is entitled to $1,552.26 in funds as a result of misapplication of funds during the case. However, as indicated in Wells Fargo's response to this motion, it is holding $588.19 in suspense for the benefit of the debtor and it refunded a total of $1,026 to the trustee during the case for the benefit of the debtor. As a result, the debtor has received more than $1,552.26 now demanded.

4. 15-28416-A-13 PATRICIA HANSEN — MOTION TO INCUR DEBT
LBG-5 — 3-26-18 [65]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing

schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The motion to incur a loan in order to refinance an existing home loan and to complete the confirmed chapter 13 plan will be granted. The motion establishes that the new loan will like enhance the ability of the debtor to complete the plan. However, even though the debtor intends to complete the plan with a portion of the new loan, only if all claims are paid in full will the plan be deemed completed.

5. 17-27350-A-13 RICCY/TESSIE LABITORIA — MOTION TO CONFIRM PLAN
TAG-2 — 2-23-18 [38]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the objection sustained.

First, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of $2,480 is less than the $2,482.15 in dividends and expenses the plan requires the trustee to pay each month.

Second, the debtor has failed to make $170 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).

Third, the plan's feasibility depends on the debtor successfully prosecuting a motion to value the collateral of Flagship Credit in order to strip down or strip off its secured claim from its collateral. No such motion has been filed, served, and granted. Absent a successful motion the debtor cannot establish that the plan will pay secured claims in full as required by 11 U.S.C. § 1325(a)(5)(B) or that the plan is feasible as required by 11 U.S.C. § 1325(a)(6). Local Bankruptcy Rule 3015-1(j) provides: "If a proposed plan will reduce or eliminate a secured claim based on the value of its collateral or the avoidability of a lien pursuant to 11 U.S.C. § 522(f), the debtor must file, serve, and set for hearing a valuation motion and/or a lien avoidance motion. The hearing must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny confirmation of the plan."

6. 18-20861-A-13 CHRISTOPHER/NEVA FULLER — ORDER TO SHOW CAUSE
3-22-18 [20]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will remain pending but the court will modify the terms of its order permitting the debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments.

The debtor failed to pay the $79 installment when due on March 19. While the delinquent installment was paid on March 30, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

7. 17-22564-A-13 ROBERT BISHOP — MOTION TO MODIFY PLAN
PGM-3 — 3-1-18 [56]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the objection sustained.

First, the plan's feasibility depends on the debtor successfully prosecuting a motion to value the collateral of Greentruck in order to strip down or strip off its secured claim from its collateral. No such motion has been filed, served, and granted. Absent a successful motion the debtor cannot establish that the plan will pay secured claims in full as required by 11 U.S.C. § 1325(a)(5)(B) or that the plan is feasible as required by 11 U.S.C. § 1325(a)(6). Local Bankruptcy Rule 3015-1(j) provides: "If a proposed plan will reduce or eliminate a secured claim based on the value of its collateral or the avoidability of a lien pursuant to 11 U.S.C. § 522(f), the debtor must file, serve, and set for hearing a valuation motion and/or a lien avoidance motion. The hearing must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny confirmation of the plan."

Second, the debtor has not established the need to reduce the monthly plan payment by filing updated Schedule I/J or similarly detailed financial information. Without such evidence, the court cannot conclude the modified plan has been proposed in good faith or that it is feasible.

8. 17-28364-A-13 STEPHANIE MUZZI — MOTION TO CONFIRM PLAN
TAG-1 — 2-23-18 [25]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the objection sustained.

First, the debtor has failed to make $1,160 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, the plan is not feasible for another reasons. It requires 60 monthly distributions to creditors but provides for only 59 monthly payments by the debtor.

Third, even though 11 U.S.C. § 1322(b)(2) prevents the proposed plan from modifying a claim secured only by the debtor's home, 11 U.S.C. § 1322(b)(2) & (b)(5) permit the plan to provide for the cure of any defaults on such a claim while ongoing installment payments are maintained. The cure of defaults is not limited to the cure of pre-petition defaults. See In re Bellinger, 179 B.R.

220 (Bankr. D. Idaho 1995). The proposed plan, however, does not provide for a cure of the post-petition arrears owed to Class 1 creditor Wells Fargo. By failing to provide for a cure, the debtor is, in effect, impermissibly modifying a home loan. Also, the failure to cure the default means that the Class 1 secured claim will not be paid in full as required by 11 U.S.C. § 1325(a)(5)(B).

9. 18-20792-A-13 YELENA MARKEVICH — ORDER TO SHOW CAUSE 3-20-18 [34]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will remain pending but the court will modify the terms of its order permitting the debtor to pay the filing fee in installments.

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $79 installment when due on March 15. While the delinquent installment was paid on March 27, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

10. 17-23793-A-13 RANJIT SINGH — MOTION TO CONFIRM PLAN 1-23-18 [69]
PLC-3

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the objection sustained.

First, the plan does not provide for the ongoing installment due on an home mortgage nor for the cure of the pre-petition arrears. The plan does not comply with 11 U.S.C. §§ 1322(b)(2) & (b)(5) and 1325(a)(5)(B).

Second, the plan does not comply with 11 U.S.C. § 1325(a)(4) because unsecured creditors would receive approximately $63,712 in a chapter 7 liquidation as of the effective date of the plan. This plan will pay nothing to unsecured creditors.

Third, the plan proposes a duration of 15 months. However, because the debtor is an over-median income debtor, the duration must be 60 months even though the debtor has no projected disposable income reported on Form !22C. See Danielson v. Flores (In re Flores), 2013 WL 4566428 (Aug. 29, 2013). The plan does not comply with 11 U.S.C. § 1325(b)(4).

Fourth, the debtor has not satisfied the burden of proving the proposed plan's feasibility. There is no convincing proof that the Fiji property can be sold for the amount necessary to fund the plan.

FINAL RULINGS BEGIN HERE

11. 17-27305-A-13 MICHAEL GRAY — OBJECTION TO CLAIM
JPJ-1
VS. CAVALRY SPV I, L.L.C. — 2-7-18 [26]

Final Ruling: This objection to the proof of claim of Cavalry SPV I has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing 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 objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained and the claim disallowed.

Because the underlying debt is a contract claim, most likely based on a written contract, California law provides a four year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach but the statute renews upon each payment made after default. The proof of claim indicates the last payment was on November 13, 2010. Therefore, using this date as the date of breach, when the case was filed on November 1, 10`76, more than 4 years had passed. Therefore, when the bankruptcy was filed, this debt was time barred under applicable nonbankruptcy law and must be disallowed. See 11 U.S.C. § 502(b)(1).

12. 15-28416-A-13 PATRICIA HANSEN — MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY
LBG-4 — 3-26-18 [61]

Final Ruling: The motion will be dismissed without prejudice.

Counsel for the debtor seeks compensation for professional services rendered to the debtor in this case. This hearing was set on 14 days' notice of the hearing. Fed. R. Bankr. P. 2002(a)(6) requires a minimum of 21 days' notice of the hearings on motions to approve professional compensation and reimbursement of expenses. While Local Bankruptcy Rule 9014-(f)(2) permits motions to be set on as little as 14 days of notice, and permits opposition to be made at the hearing, this local rule also provides this amount of notice is permitted "unless additional notice is required by the Federal Rules of Bankruptcy Procedure. . . ." Because Rule 2002(a)(6) requires a minimum of 21 days of notice of the hearing and because only 14 days' was given, notice is insufficient.

13. 15-27519-A-13 WILLIAM/GURI GUPTON — MOTION TO WAIVE REQUIREMENTS OF SECTION 1328
ALF-1 — 3-7-18 [19]

Final Ruling: This motion 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 in part.

Debtor William Gupton died after filing this case. Prior to his death, the debtors confirmed but have not yet completed a plan. Both debtors filed a financial management certificate on October 5, 2015. See 11 U.S.C. §§ 110, 111, 1328(g)(1) and Fed. R. Bankr. P. 1007(c). The co-debtor 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 when the plan is complete. The clerk shall enter the discharge of both debtors when the co-debtor is otherwise entitled to a discharge.

14. 15-24235-A-13 DUNCAN/EVELYN FINLAYSON — MOTION TO AVOID JUDICIAL LIEN
JLZ-1
VS. AMERICAN EXPRESS CENTURION BANK — 3-12-18 [27]

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 the respondent. The abstract of judgment was recorded in El Dorado County. That judgment thereby became a lien that attached to the debtor's interest in a residential real property in Cameron Park, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $462,000 as of the petition date. The unavoidable lien totaled $363,893 on that same date, consisting of a single mortgage The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.730(a)(2) in the amount of $100,000 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).

15. 17-26547-A-13 FRANCINE MITCHELL — MOTION TO MODIFY PLAN
MET-1 — 3-4-18 [16]

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.

16. 13-35262-A-13 ADAM TREMOUREUX AND DONA LEVY-TREMOUREUX — MOTION TO APPROVE LOAN MODIFICATION
ADR-3 — 3-12-18 [44]

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.

17. 18-20170-A-13 ROBERT/STEFANIE RANKIN — ORDER TO SHOW CAUSE
3-19-18 [34]

Final Ruling: The order to show cause will be discharged and the case shall remain pending.

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $77 installment when due on March 12. However, after the issuance of the order to show cause, the delinquent installment was paid. No prejudice was caused by the late payment.

18. 16-24074-A-13 ROSA GUZMAN — MOTION TO MODIFY PLAN
BLG-6 — 3-1-18 [115]

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.

19. 18-21585-A-13 ELMER/CARLEEN MOORE — MOTION FOR RELIEF FROM AUTOMATIC STAY
CCR-1 — 3-26-18 [10]
RELIANT VENTURES, L.L.C. VS.

Final Ruling: The motion will be dismissed without prejudice.

The motion does not comply with Local Bankruptcy Rule 9014-1(e)(3) because when it was filed it was not accompanied by a separate proof/certificate of service. Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof/certificate of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar. Given the absence of the required proof/certificate of service, the moving party has failed to establish that the motion was served on all necessary parties in interest.

20. 18-20687-A-13 ROBERT WILSON AND PATRICIA KING — MOTION TO VALUE COLLATERAL
ADR-1 — 3-12-18 [17]
VS. CAPITAL ONE BANK, N.A.

Final Ruling: This valuation 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 valuation motion pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a) will be granted. The debtor is the owner of the subject property. The debtor's evidence indicates that the replacement value of the subject property is $5,800 as of the effective date of the plan. Given the absence of contrary evidence, the debtor's evidence of value is conclusive. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004). Therefore, $5,800 of the respondent's claim is an allowed secured claim. When the respondent is paid $5,800 and subject to the completion of the plan, its secured claim shall be satisfied in full and the collateral free of the respondent's lien. Provided a timely proof of claim is filed, the remainder of its claim is allowed as a general unsecured claim unless previously paid by the

trustee as a secured claim.

21. 17-28394-A-13 GARY/SANDRA LOWNDES — MOTION TO CONFIRM PLAN
MJD-1 — 2-13-18 [23]

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.