UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

July 1, 2015 at 10:00 a.m.

1.	15-23800-B-13 JPJ-1	JOAN HIRONAKA Daniel M. Davis	OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE 6-11-15 [23]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan and Conditional Motion to Dismiss Case was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, the plan filed May 9, 2015, provides for treatment of Green Tree Servicing LLC in Class 1 but specifies a monthly contract installment amount of $0.00. It is not possible for the Trustee to pay the claim of this creditor through the plan with ongoing monthly contractual payments specified at $0.00.

Second, according to Schedule J filed on May 9, 2015, the Debtor provides for a first mortgage payment in the amount of $950.00 but the Debtor proposes to make ongoing payments to her mortgage in Class 1 of her plan.

Third, the Debtor has not provided the Trustee with a Class 1 Checklist and Authorization to Release. The Debtor has not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

Fourth, Section 2.07 of the plan specifies a monthly payment of $0.00 for administrative expenses. It is not possible for the Trustee to pay the balance of the Debtor's attorney's fees and any other administrative expenses through the plan with a monthly payment specified at $0.00.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan 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.

The court shall enter an appropriate civil minute order consistent with this ruling.

2. 15-23504-B-13 DEBBIE BARKER
JPJ-1 Mikalah R. Liviakis

OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
6-11-15 [15]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, the plan payment in the amount of $2,865.00 for months 1 through 10 does not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly amounts plus the Trustee's fee is $1,898.30. The plan does not comply with Section 4.02 of the mandatory form plan.

Second, the Debtor is delinquent to the Trustee in the amount of $1,865.00, which represents approximately one plan payment. By the time this matter is heard, an additional plan payment in the amount of $1,865.00 will also be due. The Debtor does not appear to be able to make the plan payments proposed. The Debtor has not carried her burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan 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.

The court shall enter an appropriate civil minute order consistent with this ruling.

3. 14-27106-B-13 MICHAEL DEBERG MOTION TO MODIFY PLAN
PLG-2 Steven A. Alpert 5-18-15 [52]

Tentative Ruling: The Debtor's Motion to Modify Chapter 13 Plan (2nd Modified Plan) After Confirmation has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the plan payment in the amount of $1,890.68 does not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly amounts plus the Trustee's fee is $2,599.00. The plan filed May 18, 2015, does not comply with Section 4.02 of the mandatory form plan.

Second, the plan lists the post-petition mortgage arrears in the amount of $2,372.98, but the actual amount of the post-petition mortgage arrears is only $1,137.49 plus a late fee of $49.00. Due to the failure of Debtor to make plan payments timely under the terms of the previously confirmed plan, the Trustee lacked sufficient funds to pay the post-petition contract installments to Carrington Mortgage for the month of August 2014. The amount of the post-petition mortgage arrears must be clarified before the Trustee can fully comply with Section 2.08(b) of the plan.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

4. 14-24608-B-13 ANA ALMARAZ — OBJECTION TO CLAIM OF GRANT AND WEBER, CLAIM NUMBER 9
JPJ-1 Pauldeep Bains — 5-7-15 [23]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Trustee's Objection to Allowance of Claim has been set for hearing on at least 44-days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). 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 (9 Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The court's decision is to sustain the objection to Proof of Claim Number 9 of Grant and Weber and disallow the claim in its entirety.

Chapter 13 Trustee Jan Johnson ("Objector"), requests that the court disallow the claim of Grant and Weber ("Creditor"), Proof of Claim No. 9 ("Claim"). The claim is asserted to be unsecured in the amount of $5,599.34. Objector asserts that the claim was filed after the date set for filing claims pursuant to Fed. R. Bankr. P. 3002(c) and/or the terms of the Debtor's confirmed plan. No request for extension of time was filed or approved by the court.

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

Objector has satisfied its burden of overcoming the presumptive validity of the claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety. The objection to the proof of claim is sustained.

The court shall enter an appropriate civil minute order consistent with this ruling.

5. 14-30112-B-13 ANTHONY/JANICE BECERRA MOTION TO MODIFY PLAN
AFL-3 Ashley R. Amerio 5-22-15 [68]

Thru #6

Tentative Ruling: The Motion to Confirm First Modified Plan Dated May 20, 2015, has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the Debtors provide for a for a first mortgage payment in the amount of $1,632.00 according to Line 4 of Schedule J filed on May 22, 2015. However, the Debtors propose to make ongoing payments to their mortgage in Class 1 of their modified plan. The Debtors have not carried their burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

Second, the plan payment in the amount of $524.00 for months 6 through 60 do not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly amounts plus the Trustee's fee is $2,239.94. The plan does not comply with Section 4.02 of the mandatory form plan.

Third, the plan will take approximately 609 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Fourth, feasibility of the plan depends on the granting of a motion to value collateral of Wells Fargo National Bank (Item #6), which is continued to July 6, 2015, at 1:30 p.m. before the Hon. Michael S. McManus. If the motion is unsuccessful, the court may deny confirmation of the plan. Even if the motion to value is successful, the plan still suffers from significant defects indicated above.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

6.	14-30112-B-13 AFL-4	ANTHONY/JANICE BECERRA Ashley R. Amerio	MOTION TO VALUE COLLATERAL OF WELLS FARGO FINANCIAL NATIONAL BANK 5-27-15 [74]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

CONTINUED TO 7/06/15 AT 1:30 P.M. IN DEPT. A BEFORE THE HON. MICHAEL S. MCMANUS.

7.	15-21314-B-7 CAH-3	NICOLE GRANDY C. Anthony Hughes	MOTION TO CONFIRM PLAN 5-14-15 [50]
	CONVERTED TO CHAPTER 7 ON 5/26/15		

Final Ruling: No appearance at the June 10, 2015 hearing is required.

The case having previously been converted to one under chapter 7, the instant motion is **denied** as moot.

8.	15-23515-B-13 JPJ-1	JACQUELINE/ROBERT COONEY Harry D. Roth	OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE 6-11-15 [32]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, the plan payment in the amount of $1,500.00 for the first month of the plan not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly amounts plus the Trustee's fee is $2,650.15. The plan does not comply with Section 4.02 of the mandatory form plan.

Second, the plan specifies a monthly dividend of $0.00 to the Franchise Tax Board in Class 2 A. It is not possible for the Trustee to pay the claim of this creditor through the plan with a monthly dividend specified as $0.00.

Third, feasibility depends on the granting of a motion to value collateral of Internal Revenue Service. To date, the Debtors have not filed, set for hearing, and served on the respondent creditor and the Trustee a stand-alone motion to value the collateral.

Fourth, the Debtors have not provided the Trustee with a Class 1 Checklist and Authorization to Release. The Debtors have not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

Fifth, feasibility depends on the granting of a motion to value collateral for Ford Motor Creditor for a 2011 Ford F-150 and a 2009 Ford Fusion SE. Although the Debtors filed a motions to value the collateral, they were heard and denied on June 10, 2015.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan is not confirmable, the Debtors will be given a further opportunity to confirm a plan. But, if the Debtors are 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 Debtors have not confirmed a plan within 75 days, the case will be dismissed on the Trustee's ex parte application.

The court shall enter an appropriate civil minute order consistent with this ruling.

9.	13-35318-B-13 LBG-7	KRISTEN GOODWIN-ALEXANDER AND JOSEPH ALEXANDER Lucas B. Garcia	MOTION FOR COMPENSATION BY THE LAW OFFICES OF STEPHEN JOHNSON FOR LUCAS GARCIA, DEBTORS' ATTORNEY(S) 6-1-15 [137]

Tentative Ruling: The Application for Approval of Debtors (sic) Attorney Fee and/or Costs in Chapter 13 Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to grant the motion for compensation.

FEES REQUESTED

Lucas Garcia ("Applicant"), the attorney to Chapter 13 Debtors Kristen Goodwin-Alexander and Joseph Alexander ("Client"), makes a second request for the allowance of $5,702.50 in fees and $168.88 in expenses, which equates to a total of $5,871.38 (and not $5,802.38).

An application for approval of attorney's fees was heard on May 13, 2014, and the applicant was authorized to apply $2,453.20 from the balance of his trust account. The Trustee's office misread the order and entered the amount of $2,453.20 to be paid through the plan. To date, the Trustee has erroneously paid the Debtors' attorney $1,298.77.

The total amount of fees and costs in this case to date are $5,871.38. The Debtors paid their attorney $2,500.00 prior to the filing of the case. The court calculates that the balance of attorney's fees to be paid through the plan is $3,371.38 (and not $3,302.38), of which $1,298.77 the Trustee has paid to the Debtors' attorney. This leaves an unpaid balance of $2,072.61. Of that amount, 0.8 hours is attributed to work performed by "legal staff" which is distinct from paralegal services and is more in the nature of secretarial and office staff services. The court will disallow this "legal staff" time. At $65.00 per hour, the amount disallowed is $52.00.

Applicant provides a task billing analysis and supporting evidence of the services provided (Dkt. 141, Exh. A).

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

> In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including–
>
> (A) the time spent on such services;
>
> (B) the rates charged for such services;
>
> (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> (D) whether the services were performed within a

> reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
>
> (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

> (I) unnecessary duplication of services; or
> (ii) services that were not--
> (I) reasonably likely to benefit the debtor's estate;
> (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

> (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
>
> (b) To what extent will the estate suffer if the services are not rendered?
>
> (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant relate to the estate enforcing rights and obtaining benefits. The court finds the services were beneficial to the Client and bankruptcy estate and reasonable.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees, costs, and expenses	$2,072.61	(from $3,371.38 - $1,298.77)
Less "legal staff" time	$ 52.00	
Final compensation	**$2,020.61**	

The court shall enter an appropriate civil minute order consistent with this ruling.

10. 14-30018-B-13 EMMANUEL/JENNIFER GACHUPIN
PGM-1 Peter G. Macaluso

MOTION TO CONFIRM PLAN
5-19-15 [37]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

The Motion to Confirm Debtors' First Amended Plan Filed on May 19, 2015, has been set for hearing on the 42-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the first amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan filed on May 19, 2015, complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

11. 14-30622-B-13 PATRICK SALIMI MOTION TO CONFIRM PLAN
PGM-3 Peter G. Macaluso 5-19-15 [80]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Motion to Confirm Debtor's First Amended Plan Filed on May 19, 2015, has been set for hearing on the 42-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the first amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan filed on May 19, 2015, complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

12. 14-32325-B-13 AMELIA PARRISH
HSM-4 Mark A. Wolff
Thru #13

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HEFNER, STARK & MAROIS, LLP FOR AARON A. AVERY, TRUSTEE'S ATTORNEY(S)
6-1-15 [68]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The First and Final Application for Allowance of Compensation to Counsel for the Former Chapter 7 Trustee has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to grant the motion for compensation as an administrative expense in this Chapter 13 case. Since this case converted from one initially filed under Chapter 7 to the current Chapter 13 case on April 9, 2015, Applicant seeks what amounts to a post-petition pre-conversion Chapter 7 administrative claim through a Chapter 13 estate.

FEES REQUESTED

Hefner, Stark & Marois, LLC ("Applicant"), counsel for the former Chapter 7 Trustee Kimberly Husted ("Client"), makes a first and final application for the allowance of $2,328.00 in fees and $0.00 in expenses. The period for which the fees are requested is for February 5, 2015, through April 7, 2015.

Applicant provides a task billing analysis and supporting evidence of the services provided (Dkt. 72, Exh. A).

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

> In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including–
>
> (A) the time spent on such services;
>
> (B) the rates charged for such services;
>
> (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> (E) with respect to a professional person,

> whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
>
> (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

> (I) unnecessary duplication of services; or
> (ii) services that were not--
> (I) reasonably likely to benefit the debtor's estate;
> (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

> (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
>
> (b) To what extent will the estate suffer if the services are not rendered?
>
> (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant relate to the estate enforcing rights and obtaining benefits. The court finds the services were beneficial to the bankruptcy estate and reasonable.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	$2,328.00
Costs and Expenses	$ 0.00

However, this award is to be classified as a post-petition pre-conversion administrative claim and governed and disbursed from the Chapter 13 estate in accordance with 11 U.S.C. §§ 503(b), 507(a) and 1322(a)(2), as allowed and contemplated

by the confirmation order entered on June 18, 2015 (Dkt. 88).

The court shall enter an appropriate civil minute order consistent with this ruling.

13. 14-32325-B-13 AMELIA PARRISH
HSM-5 Mark A. Wolff

MOTION FOR COMPENSATION FOR KIMBERLY J. HUSTED, CHAPTER 7 TRUSTEE
6-1-15 [73]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The First and Final Application for Allowance of Compensation to the Former Chapter 7 Trustee has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to grant the motion for compensation.

FEES REQUESTED

Kimberly Husted ("Applicant"), the former Chapter 7 Trustee, makes a first and final application for the allowance of $1,025.00 in fees and $0.00 in expenses. The period for which the fees are requested is for December 30, 2014, through April 7, 2015.

Applicant provides a task billing analysis and supporting evidence of the services provided (Dkt. 76, Exh. A).

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

> In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including–
>
> (A) the time spent on such services;
>
> (B) the rates charged for such services;
>
> (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
>
> (F) whether the compensation is reasonable based on the customary compensation charged by comparably

> skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

> (I) unnecessary duplication of services; or
> (ii) services that were not--
> (I) reasonably likely to benefit the debtor's estate;
> (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by a professional are "actual," meaning that the fee application reflects time entries properly charged for services, the professional still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). A professional must exercise good billing judgment with regard to the services provided as the court's authorization to employ a professional to work in a bankruptcy case does not give that professional "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

> (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
>
> (b) To what extent will the estate suffer if the services are not rendered?
>
> (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant relate to the estate enforcing rights and obtaining benefits. The court finds the services were beneficial to the bankruptcy estate and reasonable.

Applicant is allowed, and the Chapter 13 Trustee is authorized to pay, the following administrative compensation claim to the former Chapter 7 Trustee:

Fees	$1,025.00
Costs and Expenses	$ 0.00

See In Re Hages, 252 BR 789 (Bankr. N.D. Cal. 2000). Payment is also consistent with and permitted by the confirmation order entered on June 18, 2015 (Dkt. 88).

The court shall enter an appropriate civil minute order consistent with this ruling.

14. 14-31130-B-13 RICKEY/LILLIAN NELSON MOTION TO CONFIRM PLAN
CAH-3 C. Anthony Hughes 5-20-15 [72]

Tentative Ruling: The Debtors' Motion to Confirm Debtors' First Amended Chapter 13 Plan has been set for hearing on the 42-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to confirm the first amended plan.

Feasibility of the plan filed May 20, 2015, depends on the granting of a motion to value collateral of Santander Consumer USA for a 2009 Suzuki. An order was entered on June 19, 2015, resolving the Suzuki valuation issue.

The amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

15. 15-22030-B-13 ROBERT ROGERS
TJS-1 Mary Ellen Terranella

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR RELIEF FROM CO-DEBTOR STAY
5-28-15 [25]

CALIFORNIA REPUBLIC BANK -
AUTO VS.

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Motion for Relief From the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to grant the motion for relief form stay.

California Republic Bank - Auto ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2013 Toyota Prius Liftback 5D c14 Hybrid, VIN ending in -053562 (the "Vehicle"). The moving party has provided the Declaration of Maria Martinez ("Martinez Declaration") to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by the Debtor.

The Martinez Declaration provides testimony that Debtor has not made 1 post-petition payment, with a total of $483.69 in post-petition payments past due. The Declaration also provides evidence that there are 2 pre-petition payments in default, with a pre-petition arrearage of $1,451.03.

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $26,780.45 and the value of the Vehicle is determined to be $14,800.00, as stated in the Martinez Declaration.

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the debtor and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtor or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow California Republic Bank - Auto, and its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

Attorneys' Fees Requested

Though requested in the Motion, Movant has not stated either a contractual or statutory basis for the award of attorneys' fees in connection with this Motion. Movant is not awarded any attorneys' fees.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

The court shall enter an appropriate civil minute order consistent with this ruling.

16. 15-20232-B-13 JASON NGUYEN MOTION TO CONFIRM PLAN
TLA-2 Thomas L. Amberg 5-13-15 [94]

Tentative Ruling: The court issues no tentative ruling.

The Motion to Confirm Amended Chapter 13 Plan has been set for hearing on the 42-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition has been filed by the Trustee and University National Bank, and responses have been filed by the Debtor.

The motion will be determined at the scheduled hearing.

17. 11-21337-B-13 PAUL HARRISON
MRL-1 Mikalah R. Liviakis

MOTION FOR COMPENSATION BY THE LAW OFFICE OF LIVIAKIS LAW FIRM FOR MIKALAH RAYMOND LIVIAKIS, DEBTOR'S ATTORNEY(S)
5-25-15 [38]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The First Application of Attorney Mikalah Raymond Liviakis for Compensation has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to grant the motion for compensation.

FEES REQUESTED

Mikalah Liviakis ("Applicant"), the attorney to Chapter 13 Debtor Paul Harrison ("Client"), makes its first request for the allowance of $447.50 in fees and $0.00 in expenses. The period for which the fees are requested is for November 3, 2014, through May 21, 2015.

Applicant provides a task billing analysis and supporting evidence of the services provided (Dkt. 41, Exh. A).

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

> In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including–
>
> (A) the time spent on such services;
>
> (B) the rates charged for such services;
>
> (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

> (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

> (I) unnecessary duplication of services; or
> (ii) services that were not--
> (I) reasonably likely to benefit the debtor's estate;
> (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney must still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

> (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
>
> (b) To what extent will the estate suffer if the services are not rendered?
>
> (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant relate the estate enforcing rights and obtaining benefits. The court finds the services were beneficial to the Client and bankruptcy estate and reasonable.

Applicant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	$447.50
Costs and Expenses	$ 0.00

The court shall enter an appropriate civil minute order consistent with this ruling.

18. 11-33137-B-13 DARLENE BURLESON
PGM-3 Peter G. Macaluso

MOTION TO RECONSIDER ORDER DISMISSING AND REQUEST TO VACATE DISMISSAL OF CASE 5-22-15 [88]

DEBTOR DISMISSED: 05/06/2015

Tentative Ruling: The court issues no tentative ruling.

The Motion to Reconsider Order Dismissing Chapter13 and Request to Vacate Dismissal has been set for hearing on the 28-days notice required by Local Bankruptcy Rule 9014-1(f)(1). Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address any issues necessary and appropriate to the court's resolution of the matter.

The motion will be determined at the scheduled hearing.

19. 14-28337-B-13 JUDE/TIMEA WATERBURY MOTION TO MODIFY PLAN
EJS-2 Eric John Schwab 5-20-15 [30]

Tentative Ruling: The Motion to Modify Chapter 13 Plan has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the plan filed May 20, 2015, proposes a total duration of payments of 62 months, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Second, the Debtors do not propose an increase in plan payments of $500.00 that will be available to pay creditors in month 39 of the case. The plan does not comply with 11 U.S.C. § 1325(a)(3).

Third, the plan filed May 20, 2015, changes the treatment of the Internal Revenue Service priority claim from Class 5 to Class 4 The proper treatment of the claim is in Class 5. The plan does not provide proper treatment for the priority claim filed by Internal Revenue Service in the amount of $16,482.64. The plan does not comply with 11 U.S.C. § 1322(a)(2).

Fourth, the plan filed May 20, 2015, changes the treatment of the Franchise Tax Board priority claim from Class 5 to Class 4 The proper treatment of the claim is in Class 5. The plan does not provide proper treatment for the priority claim filed by Internal Revenue Service in the amount of $4,394.15. The plan does not comply with 11 U.S.C. § 1322(a)(2).

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

20. 11-20239-B-13 JUDITH SANTIAGO MOTION TO MODIFY PLAN
FF-2 Brian H. Turner 5-15-15 [44]

Tentative Ruling: The Motion to Confirm First Modified Plan Dated May 15, 2015, has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the modified plan filed May 15, 2015, states at Section 2.06 that the Debtor's attorney was paid $3,500.00 prior to the filing of the case and an additional $3,500.00 shall be paid through the plan. The total amount of attorney's fees equates to $7,000.00, which exceeds the $4,000.00 charged in nonbusiness cases and $6,000.00 charged in business cases pursuant to Local Bankr. R. 2106-1. If the Debtor's attorney is seeking additional fees, he must proceed to obtain approval of his attorney's fees and costs by separate motion pursuant to 11 U.S.C. § 330.

Second, the modified plan proposes to change the interest rate on the secured debt owed to Placer County in Class 2A from 18% to 14.63%. There is nothing in 11 U.S.C. § 1329 that permits the Debtor to change the interest rate in a post-confirmation modified plan.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

21.	14-28940-B-13 JPJ-1	TERRANCE JR. AND BRIGETTE ZACHERY Susan B. Terrado	MOTION TO CONVERT CASE FROM CHAPTER 13 TO CHAPTER 7 AND/OR MOTION TO DISMISS CASE 6-15-15 [23]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, 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.

The court's decision is to continue the hearing on the motion to August 12, 2015.

This Motion to Convert the Chapter 13 bankruptcy case of Terrance Zachery and Brigette Zachery ("Debtor") has been filed by Jan Johnson ("Movant"), the Chapter 13 Trustee. Movant asserts that the case should be converted based on the following grounds.

First, the Debtors are delinquent to the Trustee in the amount of $10,200.00, which represents approximately 2 plan payments. By the time this motion will be heard, an additional plan payment in the amount of $5,100.00 will also be due.

Second, according to Schedules A, B, and C of the petition filed September 3, 2014, the total value of non-exempt asset in the Debtors' estate is $6,650.00

Response by Debtors

The Debtors have filed a first modified plan on June 23, 2015, and also a motion to confirm the modified plan. The hearing is set for August 12, 2015.

Additionally, the Debtors have filed an Amended Schedule C on June 23, 2015, where the $6,650.00 has been fully exempted using the remaining "wild card" exemption. Debtors assert that, therefore, $0.00 would be available for liquidation to benefit creditors, and a conversion to Chapter 7 would not be in the best interest of creditors or proper in this case.

Discussion

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

> [O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause....

11 U.S.C. § 1307(c). The court engages in a "totality-of circumstances" test, weighing facts on a case by case basis in determining whether cause exists, and if so, whether conversion or dismissal is proper. *In re Love*, 957 F.2d 1350 (7th Cir. 1992). Bad faith is not one of the enumerated grounds under 11 U.S.C. § 1307, but it is "cause" for dismissal or conversion. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 113 FN.4, (B.A.P. 9th Cir. 2011), citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

The court will determine if cause exists to convert or dismiss this case pursuant to 11 U.S.C. § 1307(c) in conjunction with its consideration of the Debtors' first modified plan. The motion is continued to August 12, 2015.

The court shall enter an appropriate civil minute order consistent with this ruling.

22.	09-47645-B-13 SNM-5	RYAN/RITSA PRESTON Stephen N. Murphy	MOTION TO VALUE COLLATERAL OF BANK OF AMERICA, N.A. 5-20-15 [70]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

CONTINUED TO 7/06/15 AT 1:30 P.M. IN DEPT. A BEFORE THE HON. MICHAEL S. MCMANUS.

23. 14-31745-B-13 DONNA BUBELIS MOTION TO CONFIRM PLAN
WSS-1 W. Steven Shumway 5-21-15 [43]

Thru #24

Tentative Ruling: The Motion for Confirmation of Plan has been set for hearing on the 42-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to not confirm the first amended plan.

According to the Official Form 6J (Schedule J) filed on January 8, 2015, the Debtor's monthly net income at line 23c is $4.80. However, the Debtor proposes to make monthly payments in the amount of $89.80. The Debtor has not carried her burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

24. 14-31745-B-13 DONNA BUBELIS COUNTER MOTION TO DISMISS CASE
WSS-1 W. Steven Shumway 6-17-15 [48]

Tentative Ruling: The motion is conditionally denied.

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.

The court shall enter an appropriate civil minute order consistent with this ruling.

25. 14-21846-B-13 MARK/COLLEEN MARTIN
JPJ-3 Scott D. Hughes

MOTION TO CONVERT CASE TO CHAPTER 7 AND/OR MOTION TO DISMISS CASE
5-15-15 [80]

DEBTOR DISMISSED:
06/17/2015
JOINT DEBTOR DISMISSED:
06/17/2015

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The case having previously been dismissed by the Debtors on June 17, 2015, the Motion is dismissed as moot.

The court shall enter an appropriate civil minute order consistent with this ruling.

26. 15-22254-B-13 MIKHAIL/YULIYA VARKENTIN — MOTION TO AVOID LIEN OF HUNT CONSTRUCTION CO.
MS-3 Mark Shmorgon — 6-16-15 [44]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, 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. If there is opposition, the court may reconsider this tentative ruling.

The court's decision is to grant in part and deny in part the motion.

This is a request for an order avoiding the lien of Hunt Construction Co. ("Creditor") against personal property of Mikhail Varkentin and Yuliya Varkentin ("Debtors"), specifically one auto frame equipment, two auto lift equipment, and one 2005 Toyota Prius (VIN ending in -19014). The motion states that it is brought under 11 U.S.C. § 522(f)(1)(A) (Dkt. 44 at 1, 2). However, it argues that relief should be granted under 11 U.S.C. § 522(f)(1)(B) (Dkt. 44 at 3-4). Because the Debtors have not provided a judgment or an abstract of judgment, which is necessary for relief under § 522(f)(1)(A), but have provided a security agreement, which is relevant to relief under § 522(f)(1)(B), the court will consider the motion as one brought under § 522(f)(1)(B).

Pursuant to the Debtors' Schedule B, the frame equipment has a value of $10,000.00, the two auto lift equipment have a value of $3,000.00, and the 2005 Toyota Prius has a value of $3,000.00 as of the date of the petition. However, the Creditor has placed a value of $10,000 on all items. Debtors agree with that valuation.

Debtors have claimed an exemption pursuant to California Code of Civil Procedure § 703.140(b)(5) and (6) in the amount of $18,500.00 on Schedule C with regard to the frame equipment, two auto lifts, and other business equipment. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity in these items to support the Creditor's nonpossessory, non-purchase-money security interest. Because these items are claimed as exempt under the tools of the trade exemption, the security interest attached to the items qualifies for avoidance under § 522(f)(1)(B)(ii). Therefore, as the fixing of Creditor's security interest impairs the Debtors' tools of the trade exemption in these items and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

Debtors have also claimed an exemption in the amount of $3,000.00 with regard to the 2005 Toyota Prius. Although the Debtors claim the Prius is a tool of the trade, it has not been exempted as such. Rather, the Prius is claimed as exempt on Schedule C exclusively under California Code of Civil Procedure § 703.140(b)(2), the general vehicle exemption. Thus, while the Creditor's security interest may impair that exemption, it is not subject to avoidance because the general vehicle exemption is not within any of the categories listed in § 522(f)(1)(B)(i)-(iii). In other words, the exemption claimed for the vehicle is not a tools on the trade exemption. Therefore, to the extent Creditor's security interest attaches to the Prius, it is not avoided under 11 U.S.C. § 522(f)(1)(B).

The court shall enter an appropriate civil minute order consistent with this ruling.

27. 15-22956-B-13 GDC-1 — MARSHALL MASSON AND LISA ACKERMAN-MASSON — Guy David Chism — MOTION TO CONFIRM PLAN 5-15-15 [34]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Motion to Confirm Second Amended Chapter 13 Plan Dated May 14, 2015, has been set for hearing on the 42-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the second amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan filed on May 15, 2015, complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

28. 15-23265-B-13 JENNIFER ROSS
JPJ-1 Mark A. Wolff

OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
6-1-15 [22]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

The monthly plan payment in the amount of $2,600.00 and the quarterly plan payments in the amount of $6,100.00 do not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly and quarterly amounts plus the Trustee's fee is $8,865.31. The plan does not comply with Section 4.02 of the mandatory form plan.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan 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.

The court shall enter an appropriate civil minute order consistent with this ruling.

29. 15-21167-B-13 LIBERTY MAHINAY — MOTION TO CONFIRM PLAN
RNE-5 Ronda N. Edgar — 5-8-15 [54]

Tentative Ruling: The Motion to Confirm Debtor's Third Amended Plan has been set for hearing on the 42-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition having been filed, the court will address the merits of the motion at the hearing.

The court's decision is to confirm the third amended plan, provided that the Trustee submits an order confirming that the parties have agreed to the change of attorney's fees.

The plan payment in the amount of $2,451.00 for the months 2 through 12 does not equal the aggregate of the trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claim and executory contract and unexpired lease arrearage claims. The aggregate of the monthly amounts plus the Trustee's fee is $2,550.00. The plan filed May 8, 2015, does not comply with Section 4.02 of the mandatory form plan.

In response, the Debtor asserts that the third amended plan shall be amended to allow $200.00 in attorney's fees instead of $300.00 as listed in the plan. The Debtor asserts that this modification will fund plan payments. Additionally, rather than submitting a fourth amended plan, the parties have stipulated that the Trustee will instead make the modification and upload an order confirming that the parties have agreed to make the changes.

The amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

30. 15-23669-B-13 JPJ-1 | DARLENE CHIAPUZIO-WONG
Dale A. Orthner | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON, TRUSTEE
6-11-15 [15]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and deny confirmation of the plan.

Feasibility depends on the granting of a motion to value collateral for Santander. To date, the Debtor has not filed, set for hearing, and served on the respondent creditor and the trustee a stand-alone motion to value the collateral.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

31. 11-23272-B-13 STACI GALLARDO — MOTION TO APPROVE LOAN MODIFICATION
CJO-1 David Paul Cusick — 6-9-15 [61]

Tentative Ruling: Because less than 28 days' notice of the hearing was given, the Motion for Court Consent to Enter Into Loan Modification Agreement is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, 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. If there is opposition, the court may reconsider this tentative ruling.

The court's decision is to deny without prejudice the loan modification requested.

The motion filed by Green Tree Servicing LLC ("Movant") seeks court approval to allow Staci Gallardo ("Debtor") to enter into and finalize a loan modification with Movant. The loan modification agreement amends and supplements the Note, secured by a first Deed of Trust, which encumbers real property commonly known as 4820 61st Street, Sacramento, CA (although Class 4 of Debtor's plan indicates that the first Deed of Trust is held by Bank of America and not Green Tree Servicing LLC). The loan modification will reduce the interest rate and capitalization of arrears into a modified principal balance. The interest rate will be 4.000% and the monthly payment of principal and interest will be $754.59.

The motion is not supported by any Declaration of the Debtor. The court is unable to determine whether the Debtor desires to obtain the post-petition financing or whether Debtor is able to pay this claim on the modified terms. There is also no evidence of Green Tree's ability to enter into the loan modification agreement with the Debtor. Due to the absence of evidence, the court is unable to determine if modification is warranted or appropriate for this Debtor. Therefore, the motion is denied without prejudice.

The court shall enter an appropriate civil minute order consistent with this ruling.

32. 12-42172-B-13 DAVID/ROSA MARTINEZ MOTION TO MODIFY PLAN
CAH-3 Michael David Croddy 5-8-15 [62]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Motion to Confirm First Modified Chapter 13 Plan has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits debtors to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan filed on May 8, 2015, complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

33. 15-23473-B-13 JPJ-1 | RODNEY/CHRISTINE HOLLAND
Pauldeep Bains | OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
6-11-15 [32]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, feasibility cannot be assessed until the Debtors have filed their tax returns for the years 2011 and 2012 and the Trustee has had the opportunity to review them. The continued creditor's meeting will be held on July 9, 2015, at which time the Debtors must have filed these tax returns and provided the Trustee with copies.

Second, the plan will take approximately 84 months to complete, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Third, the Co-Debtor has not submitted proof of his social security number to the Trustee at the Meeting of Creditors as required pursuant to Fed. R. Bankr. P. 4002(b)(1)(B).

Fourth, the Debtors have not provided the Trustee with a Class 1 Checklist and Authorization to Release. The Debtors have not complied with 11 U.S.C. § 521(a)(3) and Local Bankr. R. 3015-1(c)(3).

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan is not confirmable, the Debtors will be given a further opportunity to confirm a plan. But, if the Debtors are 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 Debtors have not confirmed a plan within 75 days, the case will be dismissed on the Trustee's ex parte application.

The court shall enter an appropriate civil minute order consistent with this ruling.

34. 13-35777-B-13 SIDNE ALLINGER
LBG-7 Lucas B. Garcia

MOTION FOR COMPENSATION BY THE LAW OFFICE OF STEPHEN JOHNSON FOR LUCAS GARCIA, DEBTOR'S ATTORNEY(S)
5-29-15 [92]

Tentative Ruling: The Application for Approval of Debtors (sic) Attorney Fee and/or Costs in Chapter 13 Case has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The court's decision is to grant in part and deny in part the motion for compensation.

FEES REQUESTED

Lucas Garcia ("Applicant"), the attorney to the Chapter 13 Debtor Sidne Allinger ("Client"), makes a request for the allowance of $5,621.00 in fees and $462.12 in expenses for a total request of $6,083.12. After application of the $3,106.00 held in trust and the $1,438.95 already paid by the Chapter 13 Trustee to Applicant, a total of $1,538.17 in additional compensation is sought by this motion. The Client has opted out of the Guidelines (Order Confirming Plan, Dkt. 35, p. 2). The period for which the fees are requested is for October 9, 2012, through May 29, 2015.

Reduction by the amount held in trust and amount already paid by the Trustee leaves an unpaid balance of $1,538.17 that remains unpaid. Of that amount, 10.3 hours are attributed to "legal staff" which is distinct from paralegal services and is more in the nature of secretarial and office staff services. The court will disallow this "legal staff" time. At $65.00 per hour, the amount disallowed is $669.50.

Applicant provides a task billing analysis and supporting evidence of the services provided (Dkt. 96, Exh. A).

STATUTORY BASIS FOR PROFESSIONAL FEES

Pursuant to 11 U.S.C. § 330(a)(3),

> In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including–
>
> (A) the time spent on such services;
>
> (B) the rates charged for such services;
>
> (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

> (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

> (I) unnecessary duplication of services; or
> (ii) services that were not--
> (I) reasonably likely to benefit the debtor's estate;
> (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Benefit to the Estate

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney must still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Committee v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided as the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign [sic] to run up a [professional fees and expenses] without considering the maximum probable [as opposed to possible] recovery." *Id.* at 958. According the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

> (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
>
> (b) To what extent will the estate suffer if the services are not rendered?
>
> (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

Id. at 959.

A review of the application shows that the services provided by Applicant relate to the estate enforcing rights and obtaining benefits. The court finds the services were beneficial to the Client and bankruptcy estate and reasonable.

After application of the $3,106.00 held in trust and the $1,438.95 already paid by the Chapter 13 Trustee to Applicant, the Trustee is authorized to pay the following amounts as compensation to this professional in this case:

Additional fees, costs, and expenses	$1,538.17
Less "legal staff" time	$ 669.50
Final compensation	**$ 868.67**

The court shall enter an appropriate civil minute order consistent with this ruling.

35. 15-23677-B-13 FRANK SCRUGGS
JPJ-1 Candace Y. Brooks

OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
6-11-15 [21]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, the plan does not comply with 11 U.S.C. § 1325(b)(1)(B) as the Debtor's projected disposable income is not being applied to make payments to unsecured creditors. Form B22C-2 includes an improper expense at Line 33 for the first deed of trust held by Caliber Home Loans. However, Debtor intends to surrender his residence and it must be excluded from Form 22C. The Trustee calculates that Line 45 would show Monthly Disposable Income of $1,159.87 and the Debtors must pay $69,592.20 to general unsecured creditors. The Debtor proposed 43% to be paid to unsecured creditors but the Trustee calculates that the plan will pay a dividend of 46.3%, or approximately $45,781.89, to general unsecured creditors.

Second, the plan does not provide for treatment of the priority claim filed by Internal Revenue Service in the amount of $100.00.

Third, the Debtor has no provided pay advices from his non-filing spouse as requested by the Trustee at the Meeting of Creditors on June 11, 2015.

Fourth, feasibility depends on the granting of a motion to value collateral for Loan Mart. To date, the Debtor has not filed, set for hearing, or served on the respondent creditor and the Trustee a stand-alone motion to value the collateral.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan 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.

The court shall enter an appropriate civil minute order consistent with this ruling.

36.	15-23778-B-13 AP-1	LARRY FASSBINDER AND REBECCA MCGREGOR Ashley R. Amerio	OBJECTION TO CONFIRMATION OF PLAN BY PENNYMAC LOAN SERVICES, LLC 6-11-15 [19]

Tentative Ruling: The Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). The Debtors have filed a written reply to the objection.

The court's decision is to sustain the objection and not confirm the plan.

PennyMac Loan Services, LLC ("Creditor") objects to confirmation of the plan on the ground that it fails to provide for Creditor's pre-petition claim in full. Debtors list a pre-petition amount of $18,000.00 and provide for payments of $300.00 per month for 60 months through the plan to the Creditor. However, the Creditor asserts that its pre-petition claim is in the approximate amount of $20,777.59 and that the Debtors must increase their monthly payment to approximately $346.29 in order to cure the Creditor's pre-petition arrears.

In response, the Debtors assert that the Creditor has not filed a proof of claim for the Debtors to examine. As such, the Debtors request that the Creditor's objection be overruled on the ground that it is premature. However, Creditor did file a proof of claim on June 24, 2015, and that proof of claim states that arrears are $20,777.59. That proof of claim is entitled to presumptive validity.

Given that a valid proof of claim has been filed by the Creditor, the objection is sustained. The court finds that the plan filed May 8, 2015 does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

37. 15-23684-B-13 ALFRED/CAROLYN SHULTS — OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE
JPJ-1 C. Anthony Hughes — 6-11-15 [51]

Tentative Ruling: The Trustee's Objection to Confirmation of the Chapter 13 Plan was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. *See* Local Bankruptcy Rules 3015-1(c)(3) & (d)(1) and 9014-1(f)(1). The Debtors, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and conditionally deny the motion to dismiss.

First, the claim of Harry A. Miller is mis-classified as a Class 1 claim. According to the Debtors' testimony at the Meeting of Creditors on June 5, 2015, the lien will mature before the plan is completed since the last payment would be due approximately May 2020.

Second, the claim of Rick Rogers is mis-classified as a Class 1 claim. According to the Debtors' testimony at the Meeting of Creditors on June 5, 2015, the lien will mature before the plan is completed since the last payment would be due approximately May 2020.

Third, the Debtors have not amended their petition to disclose the lease of their stable in May 2015.

Fourth, the Debtors have not provided to the Trustee copies of certain items including, but not limited to, a completed business examination checklist, bank account statements for the 6-month period prior to the filing of the petition, proof of all required insurance, and proof of required licenses and/or permits as requested by the Trustee. The Debtors have not complied with 11 U.S.C. § 521.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Because the plan is not confirmable, the Debtors will be given a further opportunity to confirm a plan. But, if the Debtors are 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 Debtors have not confirmed a plan within 75 days, the case will be dismissed on the Trustee's ex parte application.

The court shall enter an appropriate civil minute order consistent with this ruling.

38. 15-21785-B-13 JOYCE ORTEGA MOTION TO CONFIRM PLAN
CAH-1 C. Anthony Hughes 5-15-15 [25]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Motion to Confirm First Amended Chapter 13 Plan has been set for hearing on the 42-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the first amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan filed on May 15, 2015, complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The court shall enter an appropriate civil minute order consistent with this ruling.

39.	13-33189-B-13 PGM-6	DANIEL/LORI CAMARENA Peter G. Macaluso	MOTION TO APPROVE LOAN MODIFICATION 6-3-15 [83]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

CONTINUED TO 7/06/15 AT 1:30 P.M. IN DEPT. A BEFORE THE HON. MICHAEL S. MCMANUS.

40.	14-25292-B-13 JPJ-1	JAVIER QUIROZ AND YESENIA GUZMAN-QUIROZ Peter G. Macaluso	OBJECTION TO CLAIM OF OCWEN LOAN SERVICING, LLC, CLAIM NUMBER 5 5-7-15 [30]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Trustee's Objection to Allowance of Claim has been set for hearing on at least 44-days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). 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 (9 Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The court's decision is to sustain the objection to Proof of Claim Number 5 of Ocwen Loan Servicing LLC and disallow the claim in its entirety.

Chapter 13 Trustee Jan Johnson ("Objector"), requests that the court disallow the claim of Ocwen Loan Servicing LLC ("Creditor"), Proof of Claim No. 5 ("Claim"). The claim is asserted to be secured in the amount of $253,941.71. Objector asserts that the claim was filed after the date set for filing claims pursuant to Fed. R. Bankr. P. 3002(c) and/or the terms of the Debtor's confirmed plan. No request for extension of time was filed or approved by the court.

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

Objector has satisfied its burden of overcoming the presumptive validity of the claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety. The objection to the proof of claim is sustained.

The court shall enter an appropriate civil minute order consistent with this ruling.

41. 09-45297-B-13 NORMA LOYA
SNM-11 Stephen N. Murphy
Thru #44

MOTION TO VALUE COLLATERAL OF REDEVELOPMENT AGENCY OF THE CITY OF FAIRFIELD
5-20-15 [62]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

The Motion to Value Collateral of Redevelopment Agency of the City of Fairfield, Its Assignees and/or Successors in Interest has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to treat the Motion to Value Collateral of Redevelopment Agency of the City of Fairfield, Its Assignees and/or Successors in Interest (Dkt. 62) as a motion to amend the court's prior order valuing the lien and secured claim of this creditor at $0.00 entered on March 11, 2010 (Dkt. 23) to include the correct amount of the lien and previously-omitted recording information and to grant the motion. Although the lien and secured claim remain valued at $0.00, the lien is not avoided. As stated in the court's minute order entered on May 25, 2015, the lien must be avoided and removed through an adversary proceeding. Debtor's counsel to submit an appropriate form of order.

42. 09-45297-B-13 NORMA LOYA
SNM-12 Stephen N. Murphy

MOTION TO VALUE COLLATERAL OF CITY OF FAIRFIELD
5-20-15 [66]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

The Motion to Value Collateral of City of Fairfield has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to treat the Motion to Value Collateral of City of Fairfield (Dkt. 66) as a motion to amend the court's prior order valuing the lien and secured claim of this creditor at $0.00 entered on March 11, 2010 (Dkt. 23) to include the correct name of the lienholder and previously-omitted recording information and to grant the motion. Although the lien and secured claim remain valued at $0.00, the lien is not avoided. As stated in the court's minute order entered on May 25, 2015, the lien must be avoided and removed through an adversary proceeding. Debtor's counsel to submit an appropriate form of order.

43. 09-45297-B-13 NORMA LOYA
SNM-13 Stephen N. Murphy

MOTION TO VALUE COLLATERAL OF CALIFORNIA HOUSING FINANCE AGENCY
5-20-15 [70]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

The Motion to Value Collateral of California Housing Finance Agency has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties 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 to be the equivalent of a statement of nonopposition. *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 Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to treat the Motion to Value Collateral of California Housing Finance Agency (Dkt. 70) as a motion to amend the court's prior order valuing the lien and secured claim of this creditor at $0.00 entered on March 11, 2010 (Dkt. 23) to include previously-omitted recording information and to grant the motion. Although the lien and secured claim remain valued at $0.00, the lien is not avoided. As stated in the court's minute order entered on May 25, 2015, the lien must be avoided and removed through an adversary proceeding. Debtor's counsel to submit an appropriate form of order.

44. 09-45297-B-13 NORMA LOYA
SNM-14 Stephen N. Murphy

MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A.
5-20-15 [74]

Final Ruling: No appearance at the July 1, 2015, hearing is required.

CONTINUED TO 7/06/15 AT 1:30 P.M. IN DEPT. A BEFORE THE HON. MICHAEL S. MCMANUS.

45. 15-22298-B-13 DAVID BARRERA
JPJ-1 Peter G. Macaluso

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
5-21-15 [17]

Final Ruling: No appearance at the July 1, 2015 hearing is required.

The Trustee's Objection to Debtor's Claim of Exemption has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). The failure of the Debtor and other parties 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 Debtor and the other parties in interest are entered, the matter will be resolved without oral argument and the court shall issue its ruling from the parties' pleadings.

The court's decision is to sustain the objection and the exemption is disallowed in its entirety.

The Debtor's Schedule C filed March 23, 2015, improperly exempts a 1983 Cadillac Coupe and a 2002 Ford Pick-up for a total of $4,100.00 using California Code of Civil Procedure § 704.010. However, under this exemption, only a total of $2,900.00 is permitted.

The court shall enter an appropriate civil minute order consistent with this ruling.

46.	11-24972-B-13 MAC-6	MARIA TERESA/EDUARDO ADONA Marc Carpenter	MOTION TO APPROVE LOAN MODIFICATION O.S.T. 6-19-15 [127]

Tentative Ruling: The court issues no tentative ruling.

The motion has been set for hearing on an order shortening time by Local Bankruptcy Rule 9014-1(f)(3). Since the time for service is shortened to fewer than 14 days, no written opposition is required.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues that are necessary and appropriate to the court's resolution of the matter.

The motion will be determined at the scheduled hearing.