UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

July 7, 2014 at 1:30 p.m.

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

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

IF A MOTION OR AN OBJECTION IS SET FOR HEARING PURSUANT TO LOCAL BANKRUPTCY RULE 3015-1(c), (d) [eff. May 1, 2012], GENERAL ORDER 05-03, ¶ 3(c), LOCAL BANKRUPTCY RULE 3007-1(c)(2)[eff. through April 30, 2012], OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER. IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON AUGUST 4, 2014 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY JULY 21, 2014, AND ANY REPLY MUST BE FILED AND SERVED BY JULY 28, 2014. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THE DATE AND TIME OF THE CONTINUED HEARING DATE AND OF THESE DEADLINES.

THERE WILL BE NO HEARING ON THE ITEMS IN THE SECOND PART OF THE CALENDAR, ITEMS 9 THROUGH 24. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS; IF IT IS, IT INCLUDES THE COURT'S FINDINGS AND CONCLUSIONS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

IF THE COURT CONCLUDES THAT FED. R. BANKR. P. 9014(d) REQUIRES AN EVIDENTIARY HEARING, UNLESS OTHERWISE ORDERED, IT WILL BE SET ON JULY 11, 2014, AT 2:30 P.M.

Matters to be Called for Argument

1. 14-26307-A-13 STEVEN PASCAL — MOTION FOR RELIEF FROM AUTOMATIC STAY
RLC-1 — 6-20-14 [8]
TAHOE KEYS MARINA & YACHT CLUB, L.L.C. VS.

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The movant leased real property to the debtor. The debtor defaulted in the payment of rent prior to the filing of the bankruptcy case. Also prior to the filing of the case, the movant served on the debtor a 3-day notice to pay or quit the premises. The debtor did neither and the movant filed and served an unlawful detainer action on the debtor. This case, however, was filed prior to the trial of that action.

Given the filing of the unlawful detainer action and the notice to quit that necessarily preceded it, the debtor's right to possession has terminated and there is cause to terminate the automatic stay. In re Windmill Farms, Inc., 841 F.2d 1467 (9th Cir. 1988); In re Smith, 105 B.R. 50, 53 (Bankr. C.D. Cal. 1989). The debtor no longer has an interest in the subject property which can be considered either property of the estate or an interest deserving of protection by section 362(a).

The automatic stay is modified to permit the movant to seek possession of the property. No fees and costs are awarded. The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is ordered waived.

2. 14-20626-A-13 OLUSOLA/ADEPEJU GEORGE — MOTION TO CONFIRM PLAN
PGM-2 — 5-21-14 [33]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, the debtor has failed to make $655 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, the debtor has failed to accurately complete Form 22. The debtor has taken the following impermissible deductions from current monthly income:

- the debtor has historically over-withheld monthly for annual income taxes. This has permitted the debtor to claim a large refund but it also has artificially depressed current monthly income by an average of approximately $1,180 a month.

- the debtor has deducted $517, the allowed IRS standard for acquiring a vehicle, and also deducted a payment of $265 on an auto loan. The latter must be deducted from the former.

- the debtor has taken a $340 deduction for education expenses of children without demonstrating that these expenses are actually incurred by the debtor. Further, three of the four children are over the age of 18. Therefore, the maximum deduction is $156.25

- the debtor has taken a $600 deduction for health care expenses without demonstrating both that the expenses are actually incurred and that they are reasonably necessary. Further, this amount exceeds the $400 budgeted on Schedule J. The trustee objects to the difference without documentation of the additional $200.

With these deductions eliminated, the debtor must pay between $52,665 (with no adjustment to the income tax deduction) and $116,296 (with an adjustment to the monthly income tax deduction of $1,180) and to Class 7 unsecured creditors. Because the plan will pay these creditors $7,792, it does not comply with 11 U.S.C. § 1325(b).

3. 14-24253-A-13 ROMY OSTER — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 6-19-14 [29]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The objection will be sustained and the case will be dismissed.

First, the debtor is not eligible for chapter 13 relief. 11 U.S.C. § 109(h) prohibits an individual from being a debtor under any chapter unless that individual received a credit counseling briefing from an approved non-profit budget and credit counseling agency during the 180-day period immediately preceding the filing of the petition. In this case, the debtor has not filed a certificate evidencing that a briefing was completed during the 180-day period prior to the filing of the petition. Hence, the debtor was not eligible for bankruptcy relief when this petition was filed.

Second, the debtor has failed to make $1,618.23 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Third, Schedules I and J show that the debtor has no monthly net income. Hence, the debtor cannot establish that the plan will be feasible as required by 11 U.S.C. § 1325(a)(6).

Fourth, even assuming the debtor had the financial ability to make the plan payment, the plan still is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of $1,618.23 is less than the $3,063.26 in dividends and expenses the plan requires the trustee to pay each month.

Fifth, to pay the dividends required by the plan and the rate proposed by it will take 96 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Sixth, even though the trustee is required by the plan to make the regular contract installment payment to holders of Class 1 claims, the plan fails to specify the amount of such payment to Nationstar Mortgage.

Seventh, because the debtor is not entitled to claim exemptions pursuant to Cal. Civ. Pro. Code § 703.140(b), and because the plan pays nothing to holders of nonpriority unsecured claims, the plan fails to satisfy 11 U.S.C. § 1325(a)(3). Without exemptions, these creditors would receive $15,239.69 in a chapter 7 liquidation.

4. 14-24253-A-13 ROMY OSTER — OBJECTION TO CONFIRMATION OF PLAN
RMD-1 — 6-10-14 [23]
NATIONSTAR MORTGAGE, L.L.C. VS.

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The objection will be sustained to the extent and for the reasons discussed in the ruling on the trustee's objection (JPJ-1). That ruling is incorporated by reference.

5. 14-23761-A-13 MICHAEL MURPHY — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 6-19-14 [25]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

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

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

Second, even though the trustee is required by the plan to make the regular contract installment payment to holders of Class 1 claims, the plan fails to specify the amount of such payment to Care Credit and Indian Health.

Third, when Schedules I and J are totaled correctly, the debtor has no monthly net income. Hence, the debtor cannot establish that the plan will be feasible as required by 11 U.S.C. § 1325(a)(6).

Fourth, to pay the dividends required by the plan and the rate proposed by it will take 197 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Fifth, according to Schedule I, the debtor has income from the rental of property or the operation of the business. However, the debtor failed to attach a detailed statement showing these gross receipts and related expenses. This nondisclosure is a breach of the duty imposed by 11 U.S.C. § 521(a)(1) to truthfully list all required financial information in the bankruptcy documents. To attempt to confirm a plan while withholding relevant financial information from the trustee is bad faith. See 11 U.S.C. § 1325(a)(3).

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.

6. 09-41265-A-13 GREGORY/BONNYE LUCHINI — MOTION TO INCUR DEBT 6-23-14 [35]
CA-2

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on

the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion to borrow $1,500 in order to make home repairs will be granted. The motion establishes a need for the repairs and it does not appear that repayment of the loan will unduly jeopardize the debtor's performance of the plan given the modest amount of the loan and that the debtor's performance of the plan is nearly complete.

7. 14-24467-A-13 BENJAMIN/TAMARA MATTOX — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 6-19-14 [19]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

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

First, according to Schedule I, the debtor has income from the rental of property. However, the debtor failed to attach a detailed statement showing these gross receipts and related expenses. This nondisclosure is a breach of the duty imposed by 11 U.S.C. § 521(a)(1) to truthfully list all required financial information in the bankruptcy documents. To attempt to confirm a plan while withholding relevant financial information from the trustee is bad faith. See 11 U.S.C. § 1325(a)(3).

Second, in violation of 11 U.S.C. § 521(a)(1)(B)(iv) and Local Bankruptcy Rule 1007-1(c) the debtor has failed to provide the trustee with employer payment advices for the 60-day period preceding the filing of the petition. The withholding of this financial information from the trustee is a breach of the duties imposed upon the debtor by 11 U.S.C. § 521(a)(3) & (a)(4) and the attempt to confirm a plan while withholding this relevant financial information is bad faith. See 11 U.S.C. § 1325(a)(3).

Third, 11 U.S.C. § 521(e)(2)(B) & (C) requires the court to dismiss a petition if an individual chapter 7 or 13 debtor fails to provide to the case trustee a copy of the debtor's federal income tax return for the most recent tax year ending before the filing of the petition. This return must be produced seven days prior to the date first set for the meeting of creditors. The failure to provide the return to the trustee justifies dismissal and denial of confirmation. In addition to the requirement of section 521(e)(2) that the petition be dismissed, an uncodified provision of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 found at section 1228(a) of BAPCPA provides that in chapter 11 and 13 cases the court shall not confirm a plan of an individual debtor unless requested tax documents have been turned over. This has not been done.

Fourth, to pay the dividends required by the plan and the rate proposed by it will take 70 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Fifth, Schedules I and J show that the debtor has no monthly net income. Hence, the debtor cannot establish that the plan will be feasible as required by 11 U.S.C. § 1325(a)(6).

Sixth, the secured claim of Toyota Motor Credit is misclassified as a Class 4 claim. Class 4 is reserved for secured claims that will mature after the completion of the plan and that are not in default. This claim belongs in Class 2.

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

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.

8.	14-23786-A-13 JPJ-1	CHRISTOPHER/MICHELLE AZEVEDO	OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE 6-19-14 [19]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

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

First, the plan does not comply with 11 U.S.C. § 1325(b) because it neither pays unsecured creditors in full nor pays them all of the debtor's projected disposable income. The plan will pay unsecured creditors $41,615.76 but Form 22 shows that the debtor will have $48,577.20 over the next five years.

Second, because the plan fails to specify how debtor's counsel's fees will be approved, either pursuant to Local Bankruptcy Rule 2016-1 or by making a motion in accordance with 11 U.S.C. §§ 329, 330 and Fed. R. Bankr. P. 2002, 2016, 2017, but nonetheless requires the trustee to pay counsel a monthly dividend on account of such fees, in effect the plan requires payment of fees even though the court has not approved them. This violates sections 329 and 330.

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.

FINAL RULINGS BEGIN HERE

9. 13-33309-A-13 ERROL/THEANA BARKER — MOTION TO AVOID JUDICIAL LIEN
PGM-4
VS. MONTE BELLO APARTMENTS — 5-6-14 [45]

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has a value of $200,000 as of the date of the petition. The unavoidable liens total $328,727. The debtor has an available exemption of $1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

10. 11-37310-A-13 BRENT/CHERYL HOWELL — MOTION TO SELL
SAC-2
6-9-14 [41]

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

The motion to sell real property will be granted on the condition that the sale proceeds are used to pay all liens of record in full in a manner consistent with the plan. If the proceeds are not sufficient to pay liens of record in full (including liens ostensibly "stripped off"), no sale may be completed without the consent of each lienholder not being paid in full.

11. 14-22513-A-13 JONATHAN SHELEY — OBJECTION TO CONFIRMATION OF PLAN
KK-1
GREEN TREE SERVICING, L.L.C. VS. — 6-10-14 [46]

Final Ruling: The court continues the hearing on this objection to July 21, 2014 at 1:30 p.m. so that it may be considered with the motion to confirm a plan set by the debtor at that same time.

12. 10-23022-A-13 RAYMOND/ESTHER ESCALANTE — MOTION TO MODIFY PLAN
WW-10
5-27-14 [131]

Final Ruling: This motion to confirm a modified plan proposed after confirmation of a plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2) and 9014-1(f)(1) and Fed. R. Bankr. R. 3015(g). The failure of the trustee, the U.S. Trustee, creditors, and any

other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the debtor, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the respondents' defaults are entered and the matter will be resolved without oral argument.

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

13. 13-35625-A-13 MICHAEL REED — MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY
CA-2 — 6-18-14 [74]

Final Ruling: The motion will be dismissed without prejudice.

Counsel for the debtor seeks compensation for professional services rendered to the debtor in this case. This hearing was set on 19 days' notice of the hearing. Fed. R. Bankr. P. 2002(a)(6) requires a minimum of 21 days' notice of the hearings on motions to approve professional compensation and reimbursement of expenses. While Local Bankruptcy Rule 9014-(f)(2) permits motions to be set on as little as 14 days of notice, and permits opposition to be made at the hearing, this local rule also provides this amount of notice is permitted "unless additional notice is required by the Federal Rules of Bankruptcy Procedure. . . ." Because Rule 2002(a)(6) requires a minimum of 21 days of notice of the hearing and because only 19 days' was given, notice is insufficient.

14. 10-51430-A-13 AARON HASTINGS — ORDER TO SHOW CAUSE
6-16-14 [315]

Final Ruling: The order to show cause will be discharged.

The debtor filed a motion for relief from the automatic stay without tendering the $176 filing fee due when such a motion is filed. This is cause for dismissal of the motion. However, on June 30 the debtor tendered the unpaid filing fee. No prejudice was caused by the late payment.

15. 14-20433-A-13 CINDY ELDRIDGE — MOTION TO CONFIRM PLAN
PGM-3 — 5-20-14 [35]

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

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

1323(c), 1325(a), and 1329.

16. 12-27251-A-13 MICHAEL/KAREN FUNK — MOTION TO MODIFY PLAN
RAC-1 — 5-30-14 [29]

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

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

17. 14-22166-A-13 MARLENE/DANIEL CARSON — MOTION TO CONFIRM PLAN
PGM-3 — 5-22-14 [41]

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

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

18. 13-23271-A-13 BARRIE BENSON — MOTION TO MODIFY PLAN
SDB-3 — 5-27-14 [50]

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

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

19. 13-33375-A-13 BALVIR SINGH AND NIRMAL KAUR
DC-3
MOTION TO CONFIRM PLAN
5-16-14 [63]

Final Ruling: The motion will be dismissed without prejudice.

Local Bankruptcy Rule 2002-1(c) provides that notices in adversary proceedings and contested matters that are served on the IRS shall be mailed to three entities at three different addresses: (1) IRS, P.O. Box 7346, Philadelphia, PA 19101-7346; (2) United States Attorney, for the IRS, 501 I Street, Suite 10-100, Sacramento, CA 95814; and (3) United States Department of Justice, Civil Trial Section, Western Region, Box 683, Franklin Station, Washington, D.C. 20044.

Service in this case is deficient because the IRS was not served at the second and third addresses listed above.

The court notes that the debtor's last attempt to confirm a plan was dismissed for the same reason. See Docket #55.

20. 12-20188-A-13 GARY/DENISE MARBLE
SDB-3
MOTION TO MODIFY PLAN
6-2-14 [55]

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

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

21. 14-22889-A-13 SUE GALVEZ
GW-2
VS. SCHOOLS FINANCIAL CREDIT UNION
MOTION TO VALUE COLLATERAL
6-5-14 [26]

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

The valuation motion pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a) is granted. The motion is accompanied by the debtor's declaration. The debtor is the owner of the subject property. In the debtor's opinion, the subject property had a value of $10,553 as of the date the petition was filed and the

effective date of the plan. Given the absence of contrary evidence, the debtor's opinion of value is conclusive. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004). Therefore, $10,553 of the respondent's claim is an allowed secured claim. When the respondent is paid $10,552 and subject to the completion of the plan, its secured claim shall be satisfied in full and the collateral free of the respondent's lien. Provided a timely proof of claim is filed, the remainder of its claim is allowed as a general unsecured claim unless previously paid by the trustee as a secured claim.

22. 14-22889-A-13 SUE GALVEZ — MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY
GW-3 — 6-5-14 [31]

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

The motion will be granted. The additional fees represent reasonable compensation for actual, necessary, and beneficial services rendered to the debtor. Any retainer may be drawn upon and the balance of the approved compensation is to be paid through the plan in a manner consistent with the plan and the Chapter 13 Fee Guidelines, Local Bankruptcy Rule 2016-1, if applicable.

23. 14-24691-A-13 MICHAEL LAMB AND MARGARET LEDOUX-LAMB — MOTION FOR EXAMINATION AND FOR PRODUCTION OF DOCUMENTS
KEF-1 — 6-19-14 [26]

Final Ruling: The motion will be dismissed without prejudice.

Fed. R. Bankr. P. 9013 and 9014(a) provide that a request for an order shall be made by motion. Fed. R. Bankr. P. 9014(b) further provides that a motion must be served in the manner provided for service of a summons and a complaint. Fed. R. Bankr. P. 7004(b) permits service of a summons and a complaint by first class mail. When the person served is the debtor, the debtor and the debtor's attorney both must be mailed the summons and complaint. See Fed. R. Bankr. P. 7004(b)(9) & (g). Here, the motion was served only on the debtor's attorney. Nothing has been filed by or on behalf of the debtor that might be considered a waiver of this service defect. Therefore, service is defective and the motion must be dismissed without prejudice.

24. 14-24896-A-13 STANLEY WOO — ORDER TO SHOW CAUSE
6-13-14 [16]

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

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $70 installment when due on June 9. However, after the issuance of the order to show cause, the delinquent installment was paid. No prejudice was caused by the late payment.