UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

July 30, 2018 at 1:30 p.m.

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

THE COURT FIRST WILL HEAR ITEMS 1 THROUGH 18. 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 AUGUST 27, 2018 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY AUGUST 13, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY AUGUST 20, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THE DATE AND TIME OF THE CONTINUED HEARING DATE AND OF THESE DEADLINES.

THERE WILL BE NO HEARING ON ITEMS 19 THROUGH 32 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 AUGUST 6, 2018, AT 2:30 P.M.

Matters to be Called for Argument

1. 18-22405-A-13 GEORGE/TRISHA VAUGHN — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 6-5-18 [38]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, because the debtor has underestimated the priority claim of the IRS, the plan either will not pay that claim in full in violation of 11 U.S.C. § 1322(a)(2) or it will take 73 months to complete the plan in violation of 11 U.S.C. § 1322(d).

Second, the debtor has failed to accurately complete Form 122C.

The debtor has restated current monthly income by pretending the case was filed in July instead of April. This changed the six month look back period mandated by 11 U.S.C. § 101(10)(A)(i). During a period that began in January 2018 rather than October 2017, the debtor's average monthly income went down. This violates section 101(10). Nor has the debtor presented any convincing proof that known or virtually certain circumstances have reduced the debtor's likely future income. General statements that the debtor believes future overtime and work hours will be reduced is not sufficient under Hamilton v. Lanning, 130 S.Ct 2464 (2010).

The debtor has taken the following impermissible deductions from current monthly income:

- the debtor has taken a $400 deduction for an involuntary payroll deduction at Line 16 which has not been explained or corroborated.

- The debtor has taken an impermissible deduction from current monthly income for $242 in education expenses that have not been corroborated. Further, given that the debtor's son reaches majority in no more than 12 months, this expense will not continue for the entire duration of the plan.

- The debtor has deducted $245 for auto insurance twice, once on Line 43 and once on Line 46. "High" auto insurance is not a special circumstance that may be deducted.

With current monthly income calculated per the original Form 122C-1 and after eliminating the disallowed deduction from amended Form 122C-2, the debtor has monthly projected disposable income of $1,071.28, enough to more than $64,000 to unsecured creditors. Given that less than this amount in claims have been filed, the debtor must pay unsecured creditors in full in order to comply with 11 U.S.C. § 1325(b).

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 60 days, the case

will be dismissed on the trustee's ex parte application.

2. 18-23408-A-13 SUSAN OLSEN — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-11-18 [13]

- ☐ 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 conditionally denied.

First, the debtor has failed to make $350 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, the plan fails to provide a dividend to be paid on account of allowed administrative expenses, including the debtor's attorney's fees. Unless counsel is working for nothing, this means that the plan does not provide for payment in full of priority claims as required by 11 U.S.C. § 1322(a)(2). Also see 11 U.S.C. §§ 503(b), 507(a).

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 60 days, the case will be dismissed on the trustee's ex parte application.

3. 18-23319-A-13 SANTIAGO YBARRA AND CRISTY MUNOZ — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-12-18 [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

conditionally denied.

the debtor has failed to accurately complete Form 122C-2. The debtor has taken the following impermissible deductions from current monthly income:

- the debtor has taken a $584 deduction for ongoing contributions to the support of a family member without providing proof that the family member is elderly, chronically ill, or disabled, is a member of the debtor's household or immediate family, and is unable to pay for their own support.

- the debtor has taken a $160.42 deduction for food and clothing above and beyond what the IRS standards permit without demonstrating both that the expenses are actually incurred and that they are reasonably necessary.

- The debtor has taken an impermissible deduction from current monthly income for a $100 voluntary pension contribution. This is disposable income; the debtor may not make those contributions and deduct them from the debtor's current monthly income. Accord Parks v. Drummond (In re Parks), 475 B.R. 703 (B.A.P. 9th Cir. 2012).

- The debtor has taken a deduction of $974.83 to compensate for the under-withholding of income taxes. However, based on the debtor's pre-petition pay advices and tax return for 2017, this deduction should be reduced by $77.91, to $896.92.

With these deductions eliminated or reduced, the debtor will have monthly projected disposable income of $215.98, enough to pay $12,958.80 to unsecured creditors over the duration of the plan. Because the plan will pay these creditors nothing, it does not comply with 11 U.S.C. § 1325(b).

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 60 days, the case will be dismissed on the trustee's ex parte application.

4.	18-23520-A-13 JPJ-1	GEORGE SALINAS AND SUSAN MCCLURE	OBJECTION TO CONFIRMATION OF PLAN 7-11-18 [15]

- ☐ 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.

The plan's feasibility depends on the debtor successfully prosecuting motions to value the collateral of Schools Financial Credit Union and Travis Credit Union in order to strip down or strip off their secured claims from their

collateral. No such motions have been filed, served, and granted. Absent successful motions 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."

5. 18-23422-A-13 JESSE/TRISTA MCCOARD — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-11-18 [14]

- ☐ 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 conditionally denied.

First, the debtor owes a domestic support obligation. Local Bankruptcy Rule 3015-1(b)(6) provides:

"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*."

The debtor failed to deliver to the trustee the Domestic Support Obligation Checklist. This checklist is designed to assist the trustee in giving the notices required by 11 U.S.C. § 1302(d).

The trustee must provide a written notice both to the holder of a claim for a domestic support obligation and to the state child support enforcement agency. See 11 U.S.C. §§ 1302(d)(1)(A) & (B). The state child support enforcement agency is the agency established under sections 464 and 466 of the Social Security Act. See 42 U.S.C. §§ 664 & 666. Section 1302(d)(1)(C) requires a third, post-discharge notice to both the claim holder and the state child support enforcement agency.

The trustee's notice to the claimant must: (a) advise the holder that he or she

is owed a domestic support obligation; (b) advise the holder of the right to use the services of the state child support enforcement agency for assistance in collecting such claim; and (c) include the address and telephone number of the state child support enforcement agency.

The trustee's notice to the State child support enforcement agency required by section 1302(d)(1)(B) must: (a) advise the agency of such claim; and (b) advise the agency of the name, address and telephone number of the holder of such claim.

By failing to provide the checklist to the trustee, the debtor has disregarded the rule that it be provided, has breached the duty to cooperate with the trustee imposed by 11 U.S.C. § 521(a)(3) & (a)(4). This is cause for dismissal. See 11 U.S.C. § 1307(c)(1).

Second, the secured claim of Safe Credit Union is misclassified in Class 4. Class 4 is reserved for claims that are not in default, are not modified and that will mature after the completion of the plan. This claim will mature before the end of the plan. Therefore, the claim belongs in Class 1 or 2, unless the debtor wishes to fashion some other treatment for the claim in the Additional Provisions.

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 60 days, the case will be dismissed on the trustee's ex parte application.

6. 18-22731-A-13 THOMAS/BECKY BOYES — MOTION TO CONFIRM PLAN
LBG-2 — 6-14-18 [24]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The debtor has failed to commence making plan payments and has not paid approximately $3,050 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause to deny confirmation of the plan and for dismissal of the case. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Because the debtor failed to make the first plan payment, the trustee was unable to make the ongoing mortgage payment as required by the plan. Thus, there is now a post-petition default that is not cured by the proposed plan in violation of 11 U.S.C. §§ 1322(b)(2) and 1325(a)(5)(B).

7. 18-23232-A-13 LINDA CATRON
JPJ-1

OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
7-12-18 [44]

- ☐ 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 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, the debtor has failed to commence making plan payments and has not paid approximately $5,305 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause to deny confirmation of the plan and for dismissal of the case. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Third, 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 $27,177 but Form 122C shows that the debtor will have $108,708 over the next five years.

Fourth, the debtor has not satisfied the burden of proving that the debtor will be able to perform the plan as required by 11 U.S.C. § 1325(a)(6). The plan's feasibility depends on family and friends contributing $5,000 a month to the debtor but there is no corroboration from the family and friends of the their ability or inclination to make the contributions. Also, at the meeting the debtor admitted that she is not receiving the investment identified on Scheule I.

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 60 days, the case

will be dismissed on the trustee's ex parte application.

8. 18-22943-A-13 RACHEL BROWN ROCHESTER — OBJECTION TO CONFIRMATION OF PLAN
JPJ-1 — 6-13-18 [15]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The objection will be overruled subject to the trustee confirming that he has received the financial information referred to in the objection. The objection that the plan does not satisfy 11 U.S.C. § 1325(a)(4) will be overruled. The plan requires that Class 7 unsecured claims be paid in full.

9. 18-22744-A-13 JENNIFER SALAZAR — ORDER TO SHOW CAUSE
7-6-18 [40]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $77 installment when due on July 2. While the delinquent installment was paid on July 9, the fact remains the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

10. 18-22944-A-13 DARRIN/DEZIREE SUTLIFF — OBJECTION TO CONFIRMATION OF PLAN
CJO-1 — 6-14-18 [13]
CENLAR F.S.B. VS.

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: None.

11. 15-25348-A-13 CO/COLLEEN GIANG — MOTION TO CONVERT OR TO DISMISS CASE
JPJ-2 — 6-22-18 [32]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: Subject to confirmation by the trustee that all plan payments are current, the motion will be denied.

12. 18-24150-A-13 STEVEN ADAMS
PGM-1

MOTION TO
EXTEND AUTOMATIC STAY
7-16-18 [17]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The motion will be granted.

A relief of the court's electronic case files reveals that this is the debtor's seventh bankruptcy case in the last 8 years. These cases are summarized below.

Case No.	Chap.	Filed	Status/Disposition
2018-24150	13	7/2/2018	Pending
2017-23765	13	6/2/2017	Dismissed 5/9/2018 failure to make plan payments
2017-21039	13	2/21/2017	Dismissed 3/22/2017 failure to file schedules, etc.
2016-23753	7	6/10/2016	No discharge due to failure to pay filing fee [not eligible for a discharge due to discharge in 10-53626]
2016-23092	7	5/12/2016	Dismissed 6/20/2016 failure to file schedules, etc.
2010-53626	7	12/27/2010	Discharged 3/19/10
2010-45416	13	9/23/2010	Dismissed 12/2/2010 failure to receive pre-bankruptcy credit counseling briefing

However, only one of these prior cases was dismissed within one year of the filing of the present case.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case.

Section 362(c)(3)(B) allows a debtor to file a motion requesting the continuation of the stay. A review of the docket reveals that the debtor has filed this motion to extend the automatic stay before the 30th day after the filing of the petition. The motion will be adjudicated before the 30-day period expires.

In order to extend the automatic stay, the party seeking the relief must demonstrate that the filing of the new case was in good faith as to the creditors to be stayed. For example, in In re Whitaker, 341 B.R. 336, 345 (Bankr. S.D. Ga. 2006), the court held: "[T]he chief means of rebutting the presumption of bad faith requires the movant to establish 'a substantial change in the financial or personal affairs of the debtor . . . or any other reason to conclude' that the instant case will be successful. If the instant case is one under chapter 7, a discharge must now be permissible. If it is a case under chapters 11 or 13, there must be some substantial change."

Here, it appears that the debtor was unable to maintain plan payments in the first case due to a serious medical problem. The other debtor was required to stop work and care for the debtor. This motion indicates that the debtor has recovered from the medical condition, and that the other debtor has returned to work. A comparison of Schedule I/J filed in this and the prior case indicates that net of attorney's fees, the debtor's monthly net income is approximately the same. Therefore, with the debtor's recovery, it appears a plan is feasible. The court concludes that this case is more apt to succeed.

13. 16-26053-A-13 JOHN PUGH — OBJECTION TO CLAIM
JPJ-2
VS. WISCONSIN DEPARTMENT OF REVENUE — 6-8-18 [82]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The objection will be sustained and the claim disallowed.

The last date to file a timely proof of claim was January 18, 2017. The proof of claim was filed on May 21, 2018. Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the claim is disallowed because it is untimely. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

The response argues that the claim should be allowed because the creditor was not given notice of the case in time to file a timely proof of claim. The debtor omitted the creditor from the credit mailing matrix.

The filing of a proof of claim after the deadline set by Fed. R. Bankr. P. 3002(c) is fatal. The court has no discretion to allow a late claim in a chapter 13 case. The deadline to file a proof of claim set by Fed. R. Bankr. P. 3002(c) cannot be extended as requested by the claimant. First, Rule 3002(c) contains six exceptions to the requirement that a timely proof of claim be filed. None of those exceptions are applicable here. Second, Fed. R. Bankr. P. 9006(b)(3) specifically precludes enlargement of the time for creditors to file proofs of claim except to the extent provided in Rule 3002(c). The court concludes that Rule 3002(c) provides no basis for an extension in this case. See Gardenhire v. IRS (In re Gardenhire), 209 F.3d 1145 (9th Cir. 2000) (claims in a chapter 13 case must be filed within deadline set by rule unless that deadline is extended on motion made within the original deadline).

The applicability of Rule 3002(c) and not Fed. R. Bankr. P. 3003(c)(3) to this case, and the wording of Rule 9006(b)(3), prevent the Supreme Court's decision in Pioneer Investment Services Company v. Brunswick Assoc. Ltd. Partnership,

507 U.S. 380 (1993), from being of assistance to the creditor. Pioneer involved a chapter 11 proceeding. In chapter 11 cases, the filing of proofs of claim is governed by Rule 3003 and not Rule 3002. Rule 3002 applies to chapter 13 cases. Rule 9006(b)(3) does not restrict extensions of the time to file proofs of claim in chapter 11 cases. Consequently, under Rule 9006(b)(1), the court may permit a creditor to file a proof of claim in a chapter 11 case after the bar date established under Rule 3003 has expired if excusable neglect prevented the filing of a timely proof of claim.

In Pioneer, the Supreme Court determined what constituted excusable neglect under Rule 9006(b)(1). That decision has little or no applicability here. In a chapter 13 case, Rule 9006(b)(1) is not applicable; Rules 9006(b)(3) and 3002(c) are applicable. And, as noted above Rule 3002(c) does not permit enlargement of the time to file proofs of claim after the expiration of the deadline even when excusable neglect is present.

In chapter 13 cases, the bankruptcy court lacks the equitable power to enlarge the time for filing a proof of claim apart from the six situations described in Rule 3002(c). See Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990). Because none of those situations are present here, and because the excusable neglect standard is not applicable in chapter 13 cases, the court cannot retroactively extend the time for the respondent to file a proof of claim.

Even if the creditor did not receive notice of the filing of the case and/or the deadline for claims, such would not be sufficient to allow a late claim in a chapter 13 case. See Stanislaus v. Ellett (In re Ellett), 506 F.3d 774 (9th Cir. 2007). Of course, if such notice were absent, the debtor would be unable to discharge the claim. To discharge a debtor's personal liability for a claim in a chapter 13 case, the plan must provide for that claim. To provide for the claim, the creditor must be given notice so that it has the opportunity to participate in the chapter 13 case and the plan must provide for the creditor's claim. If this did not occur in this case, the claim will not be discharge discharged. In re Lee, 182 B.R. 354 (Bankr. S.D. Ga. 1995); Southtrust Bank of Alabama v. Thomas (In re Thomas), 883 F.2d 991 (11th Cir. 1989), cert. denied, 497 U.S. 1007 (1990). See also Ellett v. Stanislaus, 506 F.3d 774 (9th Cir. 2007).

The court finally notes that the creditor has made no argument that it filed a timely informal claim. The Ninth Circuit recognizes that a claim may be presented informally. An informal proof of claim by a creditor "must state an explicit demand showing the nature and amount of the claim against the estate and evidence an intent to hold the debtor liable." Sambo's Restaurants, Inc. v. Wheeler (In re Sambo's Restaurants, Inc.), 754 F.2d 811, 815 (9th Cir. 1985). Also see In re Franciscan Vineyards, Inc., 597 F.2d 181 (9th Cir. 1979), cert. denied, 445 U.S. 915, 100 S.Ct. 1274, 63 L.Ed.2d 598 (1980); Matter of Pizza of Hawaii, Inc., 761 F.2d 1374, 1381 (9th Cir. 1985) (motion for relief from automatic stay considered an informal proof of claim).

14. 18-23364-A-13 BARRY RAASS
JPJ-1

OBJECTION TO CONFIRMATION OF PLAN
7-12-18 [15]

- ☐ 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.

The plan's viability depends on nonstandard provisions being included in section 7. The debtor has not effectively included these provisions. While they are attached, section 1.02 is not checked to indicate that nonstandard provisions are included in section 7. Thus, parties in interest have been provided insufficient notice of the nonstandard provision.

15. 18-21277-A-13 JANET MARTINO — MOTION TO MODIFY PLAN
SDB-3 — 6-22-18 [33]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, the debtor has failed to make $100 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, even though 11 U.S.C. § 1322(b)(2) prevents the proposed plan from modifying a claim secured only by the debtor's home, 11 U.S.C. § 1322(b)(2) & (b)(5) permit the plan to provide for the cure of any defaults on such a claim while ongoing installment payments are maintained. The cure of defaults is not limited to the cure of pre-petition defaults. See In re Bellinger, 179 B.R. 220 (Bankr. D. Idaho 1995). The proposed plan, however, does not provide for a cure of the post-petition arrears owed on a Class 1 home loan. The arrearage was created because the debtor failed to make all plan payments thereby preventing the trustee from making a mortgage installment payment. By failing to provide for a cure, the debtor is, in effect, impermissibly modifying a home loan. Also, the failure to cure the default means that the Class 1 secured claim will not be paid in full as required by 11 U.S.C. § 1325(a)(5)(B).

16. 18-23178-A-13 KATHLEEN HILL — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-11-18 [30]

- ☐ 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 failed to appear at the meeting of creditors. Appearance is mandatory. See 11 U.S.C. § 343. To attempt to confirm a plan while failing to appear and be questioned by the trustee and any creditors who appear, the debtor is also failing to cooperate with the trustee. See 11 U.S.C. § 521(a)(3). Under these circumstances, attempting to confirm a plan is the epitome of bad faith. See 11 U.S.C. § 1325(a)(3). The failure to appear also is cause for the dismissal of the case. See 11 U.S.C. § 1307(c)(6).

Second, the debtor has failed to commence making plan payments and has not paid approximately $1,145 to the trustee as required by the proposed plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. This is cause to deny confirmation of the plan and for dismissal of the case. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Third, the debtor has failed to fully and accurately provide all information required by the petition, schedules, and statements. Form 122-1 indicates the debtor had no income during the six months prior to bankruptcy but the debtor's pay advices indicate she had employment income that should have been report. 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).

Fourth, the debtor has not carried the burden of proving that the plan will pay unsecured creditors the present value of what would be received in a chapter 7 liquidation as required by 11 U.S.C. § 1325(a)(4).

17. 18-23478-A-13 TAMMY JACKSON — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-11-18 [12]

- ☐ 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 conditionally denied.

First, the debtor has failed to fully and accurately provide all information required by the petition, schedules, and statements. Schedule I/J does not append a detailed statement of business gross income and expenses and the Statement of Financial Affairs does not accurately recite the amount of pre-petition fees paid for the bankruptcy case. This nondisclosure and misstatement are 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, the plan fails to provide a dividend to be paid on account of allowed administrative expenses, including the debtor's attorney's fees. Unless counsel is working for nothing, this means that the plan does not provide for payment in full of priority claims as required by 11 U.S.C. § 1322(a)(2). Also see 11 U.S.C. §§ 503(b), 507(a).

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 60 days, the case will be dismissed on the trustee's ex parte application.

18. 15-20884-A-13 JACQUIE ROBINSON — MOTION TO DETERMINE FINAL CURE AND MORTGAGE PAYMENT
JDR-6 — 6-20-18 [134]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The court will confirm the debtor's full performance of the plan insofar as it has cured the arrears and maintained all post-petition installment payments due to OCwen.

This case was filed on February 5, 2015.

The confirmed plan required the debtor to make the first two post-petition ongoing installment payments due to Ocwen on the debtor's home mortgage. Thereafter, these installments were to be paid by the trustee. The monthly installment totaled $1,229.98.

The trustee's final report and account, filed May 22, 2018, indicates that he made two types of payments to Ocwen Loan Servicing as required by the confirmed plan.

First, a total of $7,421.47 was paid on account of arrears owed to Ocwen.

Second, $42,998.37 was paid to Ocwen for the period May 2015 through March 2018 in order to maintain the post-petition installment payments required by the promissory note. In addition to all interest and principal, the trustee paid one late charge of $17.83. The late charge accrued because the first installment paid by the trustee fell under the home loan before the debtor was required to make the plan payment.

The trustee then filed and served on Ocwen on or about May 25 a Notice of Final Cure Payment. This notice advised Ocwen that the trustee believed all arrears, $7,421.47, had been cured, and that all monthly ongoing mortgage payments had been made by him on behalf of the debtor.

Ocwen was required to file a response to the trustee's notice within 21 days to indicate whether it agreed with the trustee's Notice of Final Cure. If not, it was required to itemize the outstanding cure and/or the post-petition amounts it was owed.

On June 6, Ocwen filed its timely Response to Notice of Final Cure. It took no issue with the trustee's notice insofar as it indicated all arrears had been cured. But, after applying a $145.25 credit due to the debtor, it maintained that it was owed an ongoing installment of $2,392.51 due April 1, 2018.

However, the April 2018 installment was not an installment due under the plan. The plan ended after the debtor paid the installments due in March and April 2015 and the trustee made the May 2015 through March 2018 installments. Everything due in April 2018 and thereafter is not an obligation due under the plan.

Therefore, the court will confirm that all amounts owed to Ocwen, whether characterized as pre-petition arrears, post-petition arrears, or ongoing installment payments due from the commencement of the case through March 31, 2018 have been paid and discharged. Any post-petition installment due in April 2018 and thereafter was not a payment required by the plan and was not covered by the debtor's chapter 13 discharge.

FINAL RULINGS BEGIN HERE

19. 17-25404-A-13 MARIA AZTIAZARAIN — MOTION TO CONVERT OR TO DISMISS CASE 7-2-18 [101]
JPJ-2

Final Ruling: The court continues the hearing to September 4, 2018 at 1:30 p.m. so that the motion can be considered with a related objection to claim.

20. 17-25107-A-13 HEATHER HIERLING — MOTION FOR RELIEF FROM AUTOMATIC STAY 6-28-18 [19]
RMP-1
REAL TIME RESOLUTIONS, INC. VS.

Final Ruling: This 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 debtor and the trustee 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 debtor and the movant have stipulated to the relief requested. The trustee did not. Despite the trustee not joining in the stipulation, the debtor and the movant filed a stipulation providing for relief and lodged a proposed order to that effect. The court declined to enter the order because the trustee had not signed the stipulation. In the future, if the trustee has not consented to relief from the automatic stay, the parties will not lodge a proposed order permitting relief. The matter must remain on calendar for hearing.

Given the expiration of the time to file opposition, with the consent of the debtor, and given the debtor's lack of an interest in the subject property, the motion will be granted to the extent stated in the stipulation.

21. 18-20728-A-7 ELIZABETH WILSON — MOTION TO MODIFY PLAN 5-23-18 [19]
MRL-1

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

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

22. 18-22731-A-13 THOMAS/BECKY BOYES — MOTION TO VALUE COLLATERAL
LBG-1
VS. WHEELS FINANCIAL GROUP, L.L.C. — 6-14-18 [19]

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

The valuation motion pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a) will be granted. The debtor is the owner of the subject property. The debtor's evidence indicates that the replacement value of the subject property is $4,644 as of the effective date of the plan. Given the absence of contrary evidence, the debtor's evidence of value is conclusive. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004). Therefore, $4,644 of the respondent's claim is an allowed secured claim. When the respondent is paid $4,644 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.

23. 18-22134-A-13 RACHEL CARGILL — MOTION TO VALUE COLLATERAL
SLE-1
VS. LENDMARK FINANCIAL SERVICES — 6-9-18 [23]

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

The valuation motion pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a) will be granted. The debtor is the owner of the subject property. The debtor's evidence indicates that the replacement value of the subject property is $1,489 as of the effective date of the plan. Given the absence of contrary evidence, the debtor's evidence of value is conclusive. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004). Therefore, $1,489 of the respondent's claim is an allowed secured claim. When the respondent is paid $1,489 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.

24. 15-24853-A-13 KAO SAELEE AND TERESA SAEPHAN — OBJECTION TO CLAIM
JPJ-1
VS. EDUCATIONAL CREDIT MANAGEMENT CORP/NAVIENT SOLUTIONS
6-8-18 [20]

Final Ruling: This objection to the proof of claim of Educational Credit Management Corp./Navient Solutions has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained and the claim disallowed.

The last date to file a timely proof of claim was October 21, 2015. The proof of claim was filed on April 9, 2018. Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the claim is disallowed because it is untimely. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. V. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

25. 14-22555-A-13 MELANIO/ELLEN VALDELLON
KWS-1
MOTION TO MODIFY PLAN
6-15-18 [101]

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

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

26. 18-23158-A-13 RAFT THOMPSON
NLG-1
FIRST TECH FEDERAL CREDIT UNION VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
6-27-18 [18]

Final Ruling: This 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 debtor and the trustee 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 pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to repossess the vehicle it leased to the debtor, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

While the proposed plan provides for the movant's claim in Class 2, as indicated in the trustee's dismissal motion (JPJ-1), the debtor failed to commence plan payments. Therefore the trustee was unable to commence adequate protection payments to the movant as required by 11 U.S.C. § 1326(a)(1)(C). This is cause to terminate the stay.

No fees and costs are awarded. The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

27. 18-23961-A-13 LISA XIONG — MOTION TO VALUE COLLATERAL 6-28-18 [8]
MS-1
VS. ELITE ACCEPTANCE CORPORATION

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

The valuation motion pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a) will be granted. The debtor is the owner of the subject property. The debtor's evidence indicates that the replacement value of the subject property is $9,000 as of the effective date of the plan. Given the absence of contrary evidence, the debtor's evidence of value is conclusive. See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004). Therefore, $9,000 of the respondent's claim is an allowed secured claim. When the respondent is paid $9,000 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.

28. 18-23468-A-13 MEEGAN WILLIAMSON — ORDER TO SHOW CAUSE 7-6-18 [26]

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

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $79 installment when due on July 2. However, after the issuance of the order to show cause, the delinquent installment and the remainder of the filing fee were paid. No prejudice was caused by the late

payment.

29. 18-20571-A-7 MARK ENOS — MOTION TO MODIFY PLAN
PLC-7 — 6-25-18 [82]

Final Ruling: The court continues the hearing to August 6, 2018 at 1:30 p.m. because the hearing on the motion to vacate the order converting the case to chapter 7 will not be heard until July 30.

30. 18-23578-A-13 CYNTHIA TRUSTY — OBJECTION TO CONFIRMATION OF PLAN AND MOTION TO DISMISS CASE
JPJ-1 — 7-12-18 [16]

Final Ruling: The debtor and the trustee have stipulated to a briefing schedule and a continued hearing on August 27, 2018 at 1:30 p.m.

31. 17-26998-A-13 MILES RICHARD FRANCISCO — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1 — 6-8-18 [47]
TOYOTA MOTOR CREDIT CORPORATION VS.

Final Ruling: This 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 debtor and the trustee 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 pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to repossess the vehicle it leased to the debtor, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The debtor's confirmed chapter 13 plan assumes the vehicle lease with the movant. The movant alleges that even though the plan requires the debtor to make lease payments directly to it, the debtor has failed to make three monthly lease payments. This material breach of the plan is cause to terminate the automatic stay.

No fees and costs are awarded. The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

32. 17-25999-A-13 RAJENDER SARIN — MOTION TO CONFIRM PLAN
LBG-4 — 4-27-18 [76]

Final Ruling: The court continues the hearing on the motion and the objections to it to August 13, 2018 at 1:30 p.m. when the court also will consider a related valuation motion.