UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

August 24, 2015 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 SEPTEMBER 21, 2015 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY SEPTEMBER 8, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY SEPTEMBER 14, 2015. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THE DATE AND TIME OF THE CONTINUED HEARING DATE AND OF THESE DEADLINES.

THERE WILL BE NO HEARING ON ITEMS 9 THROUGH 15 IN THE SECOND PART OF THE CALENDAR. INSTEAD, THESE ITEMS HAVE BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS; IF IT IS, IT INCLUDES THE COURT'S FINDINGS AND CONCLUSIONS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

IF THE COURT CONCLUDES THAT FED. R. BANKR. P. 9014(d) REQUIRES AN EVIDENTIARY HEARING, UNLESS OTHERWISE ORDERED, IT WILL BE SET ON AUGUST 31, 2015, AT 2:30 P.M.

Matters to be Called for Argument

1. 15-22801-A-13 SJS-3 — CHRISTOPHER/LATOYA RICHARDS — MOTION TO MODIFY PLAN 7-17-15 [51]

- ☐ 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 $1,990 of the payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Second, even if plan payments were current, on this record the court would conclude that the plan will not be feasible. Schedules I and J show that the debtor will have monthly net income of approximately $1,761; the plan requires a monthly payment of $1,990.

Third, the plan attempts to strip down and provide for a vehicle loan owed to Americredit even though the court has terminated the automatic stay to permit Americredit to repossess and sell its collateral. The proposed plan impermissibly contradicts that order.

Finally, even though 11 U.S.C. § 1322(b)(2) prevents the proposed plan from modifying a claim secured only by the debtor's home, 11 U.S.C. § 1322(b)(2) & (b)(5) permit the plan to provide for the cure of any defaults on such a claim while ongoing installment payments are maintained. The cure of defaults is not limited to the cure of pre-petition defaults. See In re Bellinger, 179 B.R. 220 (Bankr. D. Idaho 1995). The proposed plan, however, does not provide for a cure of the post-petition arrears owed to Green Tree Servicing on account of its Class 1 home loan. By failing to provide for a cure of these arrears, 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).

2. 13-32912-A-13 KGH-1 — CYNTHIA SOLORZANO — MOTION FOR RELIEF FROM AUTOMATIC STAY 7-23-15 [49]
CONSUMER PORTFOLIO SERVICES, INC. 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 motion will be dismissed as moot.

The court confirmed a plan on January 7, 2014. That plan provides for the movant's claim in Class 4. Class 4 secured claims are long-term claims that are not modified by the plan and that were not in default prior to the filing of the petition. They are paid directly by the debtor or by a third party. The plan includes the following provision at section 2.11:

"Class 4 claims mature after the completion of this plan, are not in default, and are not modified by this plan. These claims shall be paid by Debtor or a third person whether or not the plan is confirmed. Upon confirmation of the plan, all bankruptcy stays are modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

Because the plan has been confirmed and because the case remains pending under chapter 13, the automatic stay has already been modified to permit the movant to proceed against its collateral.

3. 10-36328-A-13 DONNIE HALEY — MOTION TO AMEND
SDB-2 — 8-10-15 [96]

- ☐ 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 pursuant to Fed. R. Bankr. P. 3008.

The debtor moved to disallow the secured claim of Wells Fargo by valuing its collateral as having no value. This resulted in the disallowance of its claim as a secured claim but its allowance as a nonpriority unsecured claim entitled to receive a partial dividend as a Class 7 claim. However, soon after the valuation motion was granted, the debtor proposed a plan that provided for payment of Wells Fargo's secured claim even though it had been disallowed.

The two orders are inconsistent. On the one hand, Wells Fargo will be paid a partial dividend as the holder of an unsecured claim, and on the other that same claim will be paid in full as a secured claim.

Given that the modification to the confirmed plan that resulted in the claim being paid as a secured claim was pursuant to an agreement between the debtor and Wells Fargo, the court vacates its earlier valuation order. The claim will be allowed only as a secured claim.

4. 10-36328-A-13 DONNIE HALEY — MOTION TO DISMISS CASE
JPJ-3 — 7-31-15 [91]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the case will remain pending.

The motion asserts that because Wells Fargo's claim has been allowed as a general unsecured claim, it will take 86 months to pay claims under the terms of the confirmed plan in violation of 11 U.S.C. § 1322(d). While this is true, the court has vacated its order allowing Wells Fargo's claim as an unsecured claim. Its claim is secured and is being paid directly by the debtor and it will not be discharged because it matures after the completion of the plan.

5. 15-25351-A-13 MAISHA ROGERS — ORDER TO SHOW CAUSE
8-6-15 [19]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will be dismissed.

The debtor was given permission to pay the filing fee in installments pursuant to Fed. R. Bankr. P. 1006(b). The installment in the amount of $79 due on August 3 was not paid. This is cause for dismissal. See 11 U.S.C. § 1307(c)(2).

6. 15-26251-A-13 JENNIFER SALAZAR — MOTION TO EXTEND AUTOMATIC STAY
TLA-1 — 8-10-15 [10]

- ☐ 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.

This is the second chapter 13 case filed by the debtor. A prior case was dismissed within one year of the most recent petition. That case was dismissed when the debtor failed to make plan payments and pay the filing fee in installments.

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 her plan and other payments in the first case due to difficulties with a teenage daughter that required material financial and other attention to resolve. That situation has been resolved and the debtor is able to maintain her plan payments. This is a sufficient change in circumstances rebut the presumption of bad faith.

7. 13-23273-A-13 RICHARD SCHOFIELD — MOTION TO MODIFY PLAN
JPJ-2 — 7-15-15 [34]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted in part.

The trustee moves to modify the confirmed plan to increase the monthly plan payment from $290 to $1,612 a month. The increase will permit the debtor to pay all unsecured claims in full.

The trustee asserts the modification is warranted by an increase in the debtor's income. The trustee's evidence is based on the debtor's tax refund and an analysis of the debtor's income received during a 13 week period ending on March 31, 2015.

Post-confirmation modification of a plan is in the court's discretion. There is no requirement that the proponent of a modification establish that there have been significant and unanticipated changes warranting the modification, although such changes may be considered. Powers v. Savage (In re Powers), 202 B.R. 618, 622-23 (B.A.P. 9th Cir. 1996). The debtor's increased monthly income is a significant change that warrants a modification.

However, based on the debtor's response the court is unconvinced that the increase in income is as significant as posited by the trustee. As noted by the debtor, his income is based on commissions and his commissions were abnormally high in first quarter of 2015. If a bigger sample of his

commissions is examined, such as calendar year 2014, his monthly increase in income was only $541.49.

As to the trustee's assertion that the debtor is over-withholding for income taxes, this did result in a sizeable refund for 2014 but the debtor has since changed his withholding rate and expects a lower refund. At any rate, the debtor is agreeable to paying future refunds to the trustee has an additional plan payment.

Therefore, the court will order the debtor to make monthly plan payments of $831 ($290 + $541) beginning August 25 and continuing to the end of the plan as well as turning over to the trustee all refunds for tax years completed prior to last plan payment.

8. 15-24284-B-13 SHARLYN SWENDSEN — MOTION FOR RELIEF FROM AUTOMATIC STAY
BHT-108176
WELLS FARGO BANK, N.A. VS. — 7-16-15 [29]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted in part.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(1). The movant or its predecessor completed a nonjudicial foreclosure sale before the bankruptcy case was filed. Under California law, once a nonjudicial foreclosure sale has occurred, the trustor has no right of redemption. Moeller v. Lien, 25 Cal. App.4th 822, 831 (1994). In this case, therefore, the debtor has no right to ignore the foreclosure and to attempt to reorganize the debtor formerly secured by the subject property. This is cause to terminate the automatic stay.

The co-debtor stay of 11 U.S.C. § 1301 also will be terminated. The plan proposed by the debtor makes no provision for, nor could it, the movant's claim and a continuation of the co-debtor stay would irreparably injure the movant's interest in the subject real property. By the filing of this case, and by the filing of two other cases by the debtor and four cases by the debtor's spouse, the movant has been delayed since 2012 from taking its property from the debtor and the debtor's spouse. All of these prior cases were dismissed because each debtor failed to diligently prosecute them by filing all schedules and statements, or paying the filing fee, or making plan payments.

The motion will be denied to the extent it requests prospective in rem relief.

11 U.S.C. § 362(d)(4) provides that:

"On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . . with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property."

Relief under 11 U.S.C. § 362(d)(4) will be denied because the movant is no longer "a creditor whose claim is secured by an interest in such real property," for purposes of 11 U.S.C. § 362(d)(4). The movant is the owner of the property. According to the motion, the movant purchased the property at the pre-petition foreclosure sale. The movant no longer owns a debt secured by the property. Relief under section 362(d)(4) is available only to creditors who are secured by the property. Ellis v. Yu (In re Ellis), 523 B.R. 673, 678-80 (B.A.P. 9th Cir. 2014). The movant is not secured by the property. The movant is the owner of the property.

Finally, in rem relief will be denied under 11 U.S.C. § 105 as well because such relief requires an adversary proceeding. Johnson v. TRE Holdings LLC (In re Johnson), 346 B.R. 190, 195 (B.A.P. 9th Cir. 2006).

9. 15-24188-A-13 FRANKIE/YVETTE GAMBOA — MOTION TO CONFIRM PLAN
MET-2 — 7-13-15 [25]

- ☐ 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 commence making plan payments and has not paid approximately $5,812 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).

Second, because the claim of the IRS is approximately twice that estimated by the debtor, and because that claim must be paid in full as a priority tax claim, it will take 69 months to complete the plan, well in excess of the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Third, the Wells Fargo secured claim is misclassified in Class 1. That class is reserved for long term claims not modified by the plan. Such claims receive their ongoing contract installment payment and any arrears are cured. See 11 U.S.C. § 1322(b)(2) and (b)(5).

Wells Fargo will not be paid its ongoing contract claim but will receive a different amount. Hence, the claim belongs in Class 2. And, because the claim is being modified, the entire claim, including unmatured principal, must be paid in full through the plan. The only debt that can be permitted to remain long term debt is debt that is not modified by the chapter 13 plan. As long as the plan is only curing an arrearage, the long term debt may continue beyond the length of the plan. See 11 U.S.C. § 1322(b)(3) & (5). Whenever a long term debt is modified prospectively in a chapter 13 case, such as by changing its interest rate or future installments, the entire claim must be paid during the chapter 13 case. See 11 U.S.C. §§ 1322(d) and 1325(a)(5). See Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004).

Finally, 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). Because the debtor has not made timely plan payments, the trustee has been unable to maintain post-petition installment payments due on the Wells Fargo secured claim. This arrearage is not cured by the proposed plan. By failing to provide for a cure of these arrears, 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).

THE FINAL RULINGS BEGIN HERE

10. 15-25707-A-13 JEANNINE SILVA
JLZ-1

MOTION FOR WAIVER OF PRE-BANKRUPTCY CREDIT COUNSELING AND DEBTOR EDUCATION REQUIREMENTS
7-21-15 [8]

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

The motion will be granted.

The debtor asks to be exempted from the requirement of pre-bankruptcy credit counseling and of a post-filing personal financial management course due to her advanced dementia. This case was filed for the debtor by her adult son acting under a durable power of attorney. Given the debtor's condition, she suffers from a disability or incapacity that warrants the exemption. See 11 U.S.C. § 109(h). She will receive a discharge, assuming all other requirements for a discharge are met, notwithstanding 11 U.S.C. § 727(a)(11).

11. 15-24518-A-13 TERRI TAYLOR

MOTION TO CONFIRM PLAN
8-5-15 [27]

Final Ruling: The motion will be dismissed without prejudice.

First, no certificate of service was filed with the motion. Hence, there is no proof that all parties in interest were served with the proposed plan and with notice of the hearing on the motion to confirm that plan.

Second, assuming the motion was served on the day it was filed, August 5, only 19 days' notice of the hearing was given to parties in interest. Local Bankruptcy Rule 3015-1(c)(3) and (b)(1) require that when the debtor files and serves a motion to confirm a chapter 13 plan, the motion to confirm it must be set for hearing on 42 days of notice to all creditors, the chapter 13 trustee, and the U.S. Trustee. If any of these parties in interest wish to object to the confirmation of the plan, they must file and serve a written objection at least 14 days prior to the hearing. See Local Bankruptcy Rules 3015-1(b)(1) and 9014-1(f)(1)(B). The debtor's notice of the hearing on the motion to confirm the plan must advise all parties in interest of the deadline for filing written objections. See Local Bankruptcy Rule 9014-1(d)(3).

This procedure complies with Fed. R. Bankr. P. 2002(b), which requires a minimum of 28 days of notice of the deadline for objections to confirmation as well as the hearing on confirmation of the plan. Because Rule 9014-1(f)(1)(B) requires that written opposition be filed 14 days prior to the hearing but Fed. R. Bankr. R. 2002(b) requires 28 days of notice of the deadline for filing

opposition, the debtor must give 42 days of notice of the hearing.

Here, assuming service on August 5, the debtor gave only 19 days of notice of the hearing. Therefore, parties in interest received only five days notice of the deadline for filing and serving written opposition to the motion. Notice was insufficient.

12. 10-45640-A-13 ROLF/DENISE KARLSSON — MOTION TO APPROVE COMPENSATION OF DEBTORS' ATTORNEY
GW-7 — 7-24-15 [148]

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

The motion seeks approval of $1,125 in additional fees. The foregoing represents reasonable compensation for actual, necessary, and beneficial services rendered to the debtor. Any retainer may be drawn upon and the balance of the approved compensation is to be paid through the plan in a manner consistent with the plan and Local Bankruptcy Rule 2016-1, if applicable.

13. 14-22555-A-13 MELANIO/ELLEN VALDELLON — MOTION TO MODIFY PLAN
SJS-3 — 7-21-15 [61]

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.

14. 15-25258-A-13 KIMBERLY GALLEGOS — ORDER TO SHOW CAUSE
8-4-15 [20]

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 30. However, after the issuance of the order to show cause, the delinquent installment was paid. No prejudice was caused by the late payment.

15. 14-28677-A-13 CHRISTOPHER/ELIZABETH MORRIS — MOTION TO MODIFY PLAN 7-23-15 [60]
EJS-4

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 on the condition that the plan is further modified in the confirmation order to account for all prior payments made by the debtor under the terms of the prior plan, and to provide for a plan payment of $5,380 beginning August 25, 2015 through August 25, 2019. Also, the order must reduce the post-petition arrearage claim of the secured claim to $6,422.32. As further modified, the plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.

16. 12-37999-A-13 KENNETH/MICHELE MITCHELL — MOTION TO MODIFY PLAN 7-13-15 [54]
WSS-3

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. The court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

The motion will be granted on the condition that the plan is further modified in the confirmation order to account for all prior payments made by the debtor under the terms of the prior plan, and to provide for a plan payment of $4,600 beginning August 25, 2015. As further modified, the plan complies with 11 U.S.C. §§ 1322(a) & (b), 1323(c), 1325(a), and 1329.