UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

December 10, 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 13. 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 JANUARY 15, 2019 AT 1:00 P.M. IN COURTROOM 32 ON THE SIXTH FLOOR BEFORE JUDGE JAIME. OPPOSITION MUST BE FILED AND SERVED BY DECEMBER 28, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY JANUARY 8, 2019. 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 14 THROUGH 24 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 DECEMBER 17, 2018, AT 2:30 P.M.

Matters to be Called for Argument

1. 18-26001-A-13 JOHN CLARES — MOTION TO AVOID JUDICIAL LIEN
DBL-1 — 10-30-18 [15]
VS. CITIBANK, N.A.

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted in part pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $96,260 as of the petition date. The unavoidable liens totaled approximately $35,400.16 on that same date, consisting of two mortgages. The debtor is entitled to claim an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(1) of $45,124.14 in the property.

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.

To determine whether or not a judicial lien impairs an exemption under 11 U.S.C. § 522(f)(1)(A), the court must apply the statutory formula mandated by 11 U.S.C. § 522(f)(2)(A).

A judicial lien impairs an exemption in property to the extent the sum of the judicial lien, all other liens, and the debtor's exemption, exceeds the value of the subject property. 11 U.S.C. § 522(f)(2)(A).

Here, the evidence in the original motion indicated: the judicial lien secured a claim of $15,735.25; the only other unavoidable secured claims of $35,400.16; the debtor claimed an exemption was $45,124.14; and the value of the property was $96,260. Using these values, the statutory formula yields the following result:

[$15,735.25 + $35,400.16 + $45,124.14 = $96,259.55] - $96,260 = $0.45

This means that $0.45 of the $15,735.25 judicial lien is avoidable and the difference, $15,734.80, is not avoidable.

2. 13-27727-A-13 STARR ILOFF — MOTION TO DETERMINE FINAL CURE ETC
MET-2 — 11-24-18 [55]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted in part.

The debtor's initial plan was proposed on June 6, 2013. As to Wells Fargo's Class 1 claim, this plan did not cure the pre-petition arrears but maintained the ongoing mortgage payment which the debtor estimated to be $1,683 a month. This plan was not confirmed.

The debtor proposed a modified plan on September 7, 2013. As to Wells Fargo's Class 1 claim, this plan proposed to cure the pre-petition arrears at the rate of $427.18 a month and maintain the ongoing mortgage payment which the debtor estimated to be $2,082 a month. This plan was confirmed.

The modified plan did not provide that the ongoing mortgage payment in the first two months of the plan would be the $1,683 as indicated in the initial plan; rather, the $2,082 monthly installment amount was, in effect, retroactive to the beginning of the case. Nonetheless, according to this motion, the debtor tendered to the trustee, and the trustee paid to Wells Fargo, only $1,683 a month in July and August 2013.

During the case, Wells Fargo filed several notices of mortgage payment change. The last such notice was filed on May 10, 2018 and it recited that the ongoing monthly installment had increased to $2,340.51. The confirmed plan required the debtor to increase the monthly plan payment if the ongoing installment increased during the pendency of the case.

On October 26, 2018, within 30 days of the debtor's last plan payment, the trustee filed a Notice of Final Cure Payment pursuant to Fed. R. Bankr. P. 3002.1(f). This notice signaled that in the trustee's opinion the debtor had cured the pre-petition arrearage on Wells Fargo's Class 1 claim.

On November 5, 2018, Wells Fargo filed a response to the trustee's notice. Its response was within the 21-day period required by Fed. R. Bankr. P. 3002.1(g). In the response, Wells Fargo admitted that the arrearage had been cured but that a total of $4,681.02 in post-petition installment payments had not been paid to it. Wells Fargo's October 26, 2018 response does not expressly state which two monthly payments were not received. However, given that $4,681.02 equals two monthly installments of $2,340.51, and given that this became the installment amount effective June 15, 2018, the default in post-petition payments must have arisen on or after June 15, 2018.

The 60th month of the plan was June 2018 and the debtor's last plan payment was due to the trustee on June 25, 2018. Inasmuch as the trustee has reported that all plan payments were received and all dividends paid to Wells Fargo, the court concludes that the $2,340.51 installment due in June 2018 was paid and that the alleged $4,681.02 default arose on or after July 2018 and before October 26, 2018, the date of Wells Fargo's response.

Even though the 60th month of the plan was June 2018, the debtor was required to pay an additional $2,400 to the trustee after June 2018. This additional payment was required by the debtor's stipulation with the trustee. Docket 44. That stipulation also recites that the debtor began making monthly mortgage installments directly to Wells Fargo in July 2018. Hence, while the stipulation in effect extended the plan into September 2018 (as acknowledged in the trustee's final report and account, as to Wells Fargo, the plan was completed on June 30, 2018).

From this sequence of events and from the payment history provided by all parties, the court concludes that if there has been a default in making monthly installment payments, it was the debtor, not the trustee, who failed to make the installment payments. Further, this default took place after the last payment due to Wells Fargo under the plan was paid by the trustee. The default arose after the conclusion of the plan.

Therefore, the court concludes that no default in the payment of installments occurred during the pendency of the chapter 13 case. At the conclusion of the plan, the pre-petition default had been cured and no post-petition installments due through June 2018 were unpaid. Any default in the making of note installments arose on or after July 2018. The court finds and concludes that all installment payments were current through June 2018.

However, there is a problem with Wells Fargo's response to the trustee's Notice of Final Cure Payment.

The problem is not, as is argued by the debtor, that the Wells Fargo's response fails to account for two payments of $1,683. Debtor's Exhibit B is a summary by the trustee of disbursements made to creditors, including Wells Fargo, in 2013. The debtor asserts that Wells Fargo's response does not include the $1,683.80 installments paid by the trustee on July 31 and August 30, 2013. While it is true that the creditor's accounting does not include these precise amounts, the court notes that the trustee's summary includes two payments to Wells Fargo, in addition to the regular installment payments, of $1,109 and $514.27 on November 27 and December 31, respectively. It appears that these amounts were to make up the difference between the $1,683.80 and the correct installment amount, $2,082, as well as applicable late charges. These additional amounts were not the dividend due on the pre-petition arrears owed to Wells Fargo. That dividend was $427.18 a month and it did not commence until after other claims and administrative expenses were paid.

The trustee's final report and account filed November 20, 2018, reported that he paid a total of $124,733.37 to Wells Fargo on account of the ongoing mortgage installments that fell due for the 60-month period ending June 30, 2018.

The accounting attached to Wells Fargo's response covers a period longer than the duration of the plan. It should stop on June 30, 2018 but it includes payments due and made through October 15, 2018. It reports that it received a total of $132,587.19 on account of the ongoing installments. This includes $11,290.89 made and received after June 2018. The trustee did not make these payments. Subtracting the $11,290.89 from the total received, $132,587.19, yields the amount received by Wells Fargo and paid by the trustee. This sum equals $121,296.30.

The trustee, however, reported he paid total installments of $124,733.37 through June 30, 2018. Wells Fargo has not accounted to $3,437.07 paid to it by the trustee. Further, the discrepancy becomes larger when it is noted that Wells Fargo reports that all installment payments it received through June 2018 satisfied the installment due only through March 2018. Wells Fargo has not accounted for three additional payments of $2,118.10 made by the trustee, a total of $6,354.30, for April, May and June 2018.

Therefore, Wells Fargo failed to apply a total of $9,791.37 paid to it by the trustee for the regular monthly installment payments that fell due through June 2018. Wells Fargo instead applied $9,791.37 of the $11,290.89 in payments made by the debtor after June 30, 2018 to the installments due April, May and June 2018. When the amounts paid by the debtor after June 30, 2018 are applied to the four post-plan-completion months covered by Wells Fargo's response, July through October 2018, it is clear that all installments have been made through October 2018.

3.	18-26527-A-7	GEOFF CUMMINS AND LAURA BRAMBILA	ORDER TO SHOW CAUSE 11-21-18 [30]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The case will remain pending but no discharge entered

unless the filing fee is paid in full.

The court granted the debtor permission to pay the filing fee in installments. The debtor failed to pay the $79 installment when due on November 16. After the installment fell due, the debtor converted the case to one under chapter 7. The case will remain pending under chapter 7 despite the failure to pay the installment. However, if the installment or future installments are not paid, the case will be closed upon the completion of the trustee's administration of the estate without entry of a discharge.

4. 17-21533-A-13 PRANEE AREND — OBJECTION TO CLAIM
WW-4
VS. WILMINGTON SAVINGS FUND SOCIETY, F.S.B. — 10-25-18 [88]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: None.

The objection centers on two payments, $21,224.88 made on January 20, 2015 and $78,200 made on August 24, 2015. The debtor maintains that these payments should have reduced the principal balance of the loan by $99,424.88. The objection, however, is not accompanied by a detailed accounting that spans the period from these payments to the date of the petition. The court also sees nothing in the record that these payments were to be applied entirely to principal.

Likewise, while the creditor maintains the payments were applied, its accounting attached to the proof of claim begins after both payments were made and it has provided no evidence with its response as to how the payments were to be applied.

Therefore, in the absence of a settlement, the court will set a briefing schedule to supplement the evidence in these particulars.

5. 18-24937-A-13 JOHN HUGHES — MOTION TO CONFIRM PLAN
PLC-1
9-28-18 [25]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, 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.

Second, the debtor has not filed an income tax return for 2016. The return is delinquent. Prior to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 becoming effective, the Bankruptcy Code did not require chapter 13 debtors to file delinquent tax returns. If a debtor did not file tax returns, the trustee might object to the plan on the grounds of lack of feasibility or that the plan was not proposed in good faith. See, e.g., Greatwood v. United States (In re Greatwood), 194 B.R. 637 (9th Cir. B.A.P. 1996), *affirmed*, 120 F.3d. 268 (9th Cir. 1997).

Since BAPCPA became effective, a chapter 13 debtor must file most pre-petition delinquent tax returns. See 11 U.S.C. § 1308. Section 1308(a) requires a chapter 13 debtor who has failed to file tax returns under applicable nonbankruptcy law to file all such returns if they were due for tax periods during the 4-year period ending on the date of the filing of the petition. The delinquent returns must be filed by the date of the meeting of creditors. This was not done.

There are two consequences to a failure to comply with section 1308. The failure is cause for dismissal. See 11 U.S.C. § 1307(e). In this case, however, the trustee has not moved for dismissal. Also, 11 U.S.C. § 1325(a)(9) and an uncodified provision of BAPCPA found at section 1228(a) of the Act provide that the court cannot confirm a plan if delinquent returns have not been filed with the taxing agency and filed with the court. This has not been done and so the court cannot confirm any plan proposed by the debtor.

6. 18-26238-A-13 KATE KERNER — OBJECTION TO CONFIRMATION OF PLAN 11-21-18 [25]
JPJ-1

- ☐ 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.

First, to pay the dividends required by the plan at the rate proposed by it will take 119 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Second, the debtor has not established that the plan will pay all projected disposable income to unsecured creditors as required by 11 U.S.C. § 1325(b) because the debtor has erroneously deducted business expenses when calculating current monthly income on Form 122C. Gross business income, without expense deduction, is part of the debtor's current monthly income. Once total current monthly income is calculated, business expenses may be deducted as an expense when calculating current monthly income. Accord In re Weigand, 386 B.R. 238 (9th Cir. BAP 2008).

7. 18-27348-A-13 APRIL TURNBULL
PGM-1

MOTION TO EXTEND AUTOMATIC STAY O.S.T. 11-21-18 [10]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: None. The hearing was continued in order to permit the debtor to give meaningful notice to all parties in interest. Subject to proof that notice of the motion and the continued hearing have been served and subject to no meritorious opposition being raised at this hearing, the court will leave its order extending the automatic stay in place.

8. 18-26352-A-13 TIMOTHY CLARK
JPJ-1

OBJECTION TO CONFIRMATION OF PLAN 11-21-18 [27]

- ☐ 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 in part.

To pay the dividends required by the plan at the rate proposed by it will take 134 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

9. 16-27065-A-13 GWENDOLYN WHITE
MMN-6

MOTION TO MODIFY PLAN 10-25-18 [61]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the objection overruled on the conditions stated below.

The additional evidence from the debtor indicates that she is likely to be able to make all future plan payments. The plan complies with 11 U.S.C. § 1325(a)(6).

Also, the plan will cash flow provided that the debtor's counsel's administrative claim is paid at the rate of $90 a month after payment of the $1,525.

10. 18-21884-A-13 ERIC/ADINA HENDERSON — MOTION TO CONFIRM PLAN
DBL-4 — 10-31-18 [63]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

The plan is not complete. First, it is unsigned in violation of Fed. R. Bankr. P. 9011. Second, section 1.02 refers to attached additional provisions that are not attached to the plan.

Also, the debtor has failed to make $19,188 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).

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 a post petition arrearage owed to the Class 1 home loan. 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).

11. 18-21884-A-13 ERIC/ADINA HENDERSON — COUNTER MOTION TO CONDITIONALLY DISMISS CASE
DBL-4 — 11-26-18 [71]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted.

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.

12. 18-26852-A-13 JIMMY SANTOS AND JULIE MAGHONEY SANTOS — MOTION TO EXTEND AUTOMATIC STAY O.S.T.
PLC-1 — 11-20-18 [18]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: None. The hearing was continued in order to permit the debtor to give meaningful notice to all parties in interest. Subject to proof that notice of the motion and the continued hearing have been served and subject to no meritorious opposition being raised at this hearing, the court will leave its order extending the automatic stay in place.

13. 17-20898-A-13 LISA CARTER
CYB-2

MOTION TO
INCUR DEBT O.S.T.
11-29-18 [28]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion to incur a purchase money loan in order to purchase a new home will be granted. The motion establishes a need for the home and it does not appear that repayment of the loan will unduly jeopardize the debtor's performance of the plan given that the debtor's performance of the plan is complete or nearly complete.

FINAL RULINGS BEGIN HERE

14. 18-21101-A-13 JAMES/ANNE-MARIE MAY — MOTION FOR WAIVER OF CERTIFICATE REQUIREMENTS FOR DISCHARGE
MRL-1 — 10-8-18 [23]

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.

Debtor Anne Marie May died on August 25, 2018. Prior to her death, the debtors confirmed but have not yet completed a plan. Both debtors filed a financial management certificate on January 9, 2012. See 11 U.S.C. §§ 110, 111, 1328(g)(1) and Fed. R. Bankr. P. 1007(c). The co-debtor is authorized pursuant to Local Bankruptcy Rule 1016-1 to file the case-ending documents required by Local Bankruptcy Rules 1007(c) and 5009-1. The clerk shall enter the discharge of both debtors when the co-debtor is otherwise entitled to a discharge.

15. 18-26306-A-13 JAMES/THERESA QUIOCHO — OBJECTION TO CONFIRMATION OF PLAN
JPJ-1 — 11-21-18 [19]

Final Ruling: The objection has been voluntarily dismissed.

16. 18-21714-A-13 SONIA SCALESE — MOTION TO CONFIRM PLAN
SLE-3 — 10-29-18 [52]

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.

17. 17-23126-A-13 MARJORIE ALCANTARA — MOTION TO MODIFY PLAN
RJ-2 — 10-28-18 [37]

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.

18. 18-26331-A-13 FELIX SEGOVIA — OBJECTION TO CONFIRMATION OF PLAN
JPJ-1 — 11-21-18 [17]

Final Ruling: The objection has been voluntarily dismissed.

19. 18-26333-A-13 BRIAN DIVIRD — OBJECTION TO CONFIRMATION OF PLAN
JPJ-1 — 11-21-18 [18]

Final Ruling: The objection has been voluntarily dismissed.

20. 17-28151-A-13 GUALBERTO/LINDA CARDENAS — MOTION TO MODIFY PLAN
EJS-1 — 11-5-18 [34]

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.

21. 18-26251-A-13 CHAMERE LEE — OBJECTION TO CONFIRMATION OF PLAN
JPJ-1 — 11-21-18 [16]

Final Ruling: The objection has been voluntarily dismissed.

22. 16-27065-A-13 GWENDOLYN WHITE
MMN-7

MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY
10-25-18 [67]

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 $1,525 in additional fees incurred principally in connection a motion to incur credit and three motions to confirm modified plans. 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.

23. 18-25088-A-13 DANIEL MASSEY
CAS-1
FINANCIAL SERVICES VEHICLE TRUST VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-6-18 [26]

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 and to obtain possession of its personal property security, and to dispose of it in accordance with applicable nonbankruptcy law. The movant is the lessor of a vehicle. The lease has matured and the debtor has proposed a plan that does not provide for the payment of the movant's claim. This is cause to terminate the automatic stay.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

24. 18-26490-A-13 SUZETTE PACILLAS-HICKEN ORDER TO SHOW CAUSE 11-19-18 [18]

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 November 14. However, after the issuance of the order to show cause, the remaining unpaid portion of the filing fee was paid. No prejudice was caused by the late payment.