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3 UNITED STATES BANKRUPTCY COURT  
4 EASTERN DISTRICT OF CALIFORNIA  
5 SACRAMENTO DIVISION  
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8 In re: )  
9 ) Case No. 06-21301-B-13J  
10 DUANE/JOANNE RAMEY, )  
11 Debtor(s). ) Docket Control No. WW-2  
12 ) Date: November 14, 2006  
Time: 9:30 a.m.

13 On or after the calendar set forth above, the court issued  
14 the following ruling. The official record of the ruling is  
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of  
16 the court's decision under the E-Government Act of 2002 (the  
17 "Act"), a copy of the ruling is hereby posted on the court's  
Internet site, [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov), in a text-searchable  
18 format, as required by the Act. However, this posting does not  
constitute the official record, which is always the ruling  
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 This motion has been filed pursuant to LBR 4001-1 and LBR 9014-  
21 1(f)(1). The failure of the the trustee and all other parties in  
22 interest to file timely written opposition as required by this local  
23 rule is considered consent to the granting of the motion. See Ghazali  
24 v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995).

25 The debtors' motion for the court to amend its August 14, 2006,  
26 order confirming their Chapter 13 plan is denied. Movants, the  
27 debtors in this case, seek relief under Fed. R. Civ. P. 60(b)(1) and  
28 (b)(6), made applicable by Fed. R. Bankr. P. 9024. Rule 60(b)(1)

1 allows for relief from a final order for "mistake, inadvertence,  
2 surprise, or excusable neglect." Here, the debtors have alleged that  
3 they inadvertently submitted a confirmation order that did not provide  
4 for an modification agreed upon by the debtors and creditor World  
5 Savings to provide for the payment of World Savings' claim in class 4.

6 This alleged inadvertence is not of the type that constitutes  
7 excusable neglect pursuant to Rule 60(b)(1). The mistake alleged by  
8 debtors is their failure to propose a stipulation curing the  
9 anticipated objection of creditor World Savings by inserting into  
10 class 4 a \$198,000 claim without any notice to creditors. If that  
11 mistake had not been made and such a stipulation had been submitted to  
12 the court as agreed by the debtors and World Savings, the court would  
13 not have approved the stipulation, as a properly noticed plan  
14 modification motion would have been required. Even though the  
15 debtors' instant motion was apparently served on all creditors, it  
16 does not comply with the requirements of G.O. 05-03 ¶ 8(b). This  
17 motion is essentially a plan modification motion. Paragraph 8(b)  
18 requires that if the debtor modifies the plan after confirmation, the  
19 debtor shall file and serve the modified plan together with a motion  
20 to confirm it. The debtors have neither filed a modified plan nor a  
21 motion to confirm it.

22 Accordingly, the debtors have not shown that their alleged  
23 mistake is of the type justifying relief under Rule 60(b)(1). Nor  
24 have they shown a reason justifying relief from the operation of the  
25 plan confirmation order under Rule 60(b)(6).