

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

June 15, 2017 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 10. 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 JULY 13, 2017 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY JUNE 30, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY JULY 6, 2017. 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 11 THROUGH 18 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 JUNE 19, 2017, AT 2:30 P.M.

June 15, 2017 at 1:30 p.m.

Matters to be Called for Argument

1. 17-22209-A-13 ROBIN/THOMAS HARLAND
JPJ-1
OBJECTION TO
CONFIRMATION OF PLAN AND MOTION TO
DISMISS CASE
5-24-17 [19]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

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

First, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of \$4,000 is less than the \$4,079.81 in dividends and expenses the plan requires the trustee to pay each month.

Second, to pay the dividends required by the plan at the rate proposed by it will take 77 months which exceeds the maximum 5-year duration permitted by 11 U.S.C. § 1322(d).

Third, 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.

Because the plan proposed by the debtor is not confirmable, the debtor will be given a further opportunity to confirm a plan. But, if the debtor is unable to confirm a plan within a reasonable period of time, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If the debtor has not confirmed a plan within 75 days, the case will be dismissed on the trustee's ex parte application.

2. 17-22310-A-13 CAROLINE HEGARTY OBJECTION TO
JPJ-1 CONFIRMATION OF PLAN
5-24-17 [19]

- ☐ 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.

If requested by the U.S. Trustee or the chapter 13 trustee, a debtor must produce evidence of a social security number or a written statement that such documentation does not exist. See Fed. R. Bankr. P. 4002(b)(1)(B). In this case, the debtor has breached the foregoing duty by failing to provide evidence of the debtor's social security number. This is cause both for dismissal and denial of confirmation.

3. 17-22310-A-13 CAROLINE HEGARTY OBJECTION TO
PPR-1 CONFIRMATION OF PLAN
PROPERTY REHAB TRUST, L.L.C. VS. 5-25-17 [22]

- ☐ 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.

The objection that the plan provides a treatment of the objecting creditor's claim inconsistent with 11 U.S.C. § 1325(a)(5)(B) will be overruled. The objection states that the objecting creditor holds an unsecured claim. Section 1325(a)(5)(B) applies only to secured claims.

Likewise, the complaint that the plan does not satisfy section 1322(b)(5) because it does not provide for the maintenance of contract installment payments will be overruled. No such treatment is required by 11 U.S.C. § 1322(a), particularly considering the fact that the movant holds an unsecured claim.

The objection that the complaint does not satisfy 11 U.S.C. § 1325(b) because it fails to pay unsecured creditor creditors all of the debtor's projected disposable income will be overruled. Because the plan provides for payment in full of all unsecured claims, section 1325(b) is not applicable.

Also, given the amount of the objecting creditor's claim is approximately \$375,000 and is based on a judgment, and given that the other unsecured claims total less than \$5,000, the debtor's unsecured claims do not exceed the cap set by 11 U.S.C. § 109(e).

However, the objection to the plan's feasibility will be sustained. The plan requires a lump sum payment exceeding \$300,000 in the twelfth plan month. There is no proof as required by 11 U.S.C. § 1325(a)(6) from the debtor that the debtor has the ability to make such a payment.

4. 17-20729-A-13 ELIZABETH BART-PLANGE MOTION TO
SLE-1 OPOKU CONFIRM PLAN
4-28-17 [37]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, the plan is not feasible as required by 11 U.S.C. § 1325(a)(6) because the monthly plan payment of \$3,143 is less than the \$6,243.29 in dividends and expenses the plan requires the trustee to pay each month.

Second, the debtor has failed to make \$4,245.01 of payments required by the plan. This has resulted in delay that is prejudicial to creditors and suggests that the plan is not feasible. See 11 U.S.C. §§ 1307(c)(1) & (c)(4), 1325(a)(6).

Third, the plan does not comply with 11 U.S.C. § 1325(a)(4) because unsecured creditors would receive approximately \$111,000 in a chapter 7 liquidation as of the effective date of the plan. This plan will pay only 46,329 to unsecured creditors.

5. 17-22346-A-13 CONCING WOODWARD OBJECTION TO
JPJ-1 CONFIRMATION OF PLAN
5-24-17 [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 includes payment of \$6,000 in attorney's fees for the debtor's attorney pursuant to Local Bankruptcy Rule 2016-1. This local rule permits the debtor and the debtor's counsel to seek approval of counsel's compensation pursuant to an abbreviated procedure rather than by making a motion in accordance with 11 U.S.C. §§ 329, 330 and Fed. R. Bankr. P. 2002, 2016, 2017. This permits counsel to receive a maximum fee of up to \$4,000 for a consumer case or \$6,000 for a business case and have that fee approved in connection with the confirmation of the plan. In this case, however, counsel's proposed fee of \$6,000 assumes the case is a business case. However, while the debtor operates a business, it is incorporated and its debts and assets are not a part of this case. A review of the schedules indicates that the debtor's debts are predominately consumer debts. Therefore, if counsel wishes compensation greater than \$4,000, he must apply for compensation pursuant to 11 U.S.C. §§ 329, 330 and Fed. R. Bankr. P. 2002, 2016, 2017.

6. 17-22348-A-13 RAMON MENDOZA AND MARIA OBJECTION TO
JPJ-1 PARAMO CONFIRMATION OF PLAN

June 15, 2017 at 1:30 p.m.

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

Second, 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.

Third, the debtor has failed to fully and accurately provide all information required by the petition, schedules, and statements. The petition fails to disclose the debtor's former name and a prior bankruptcy case. 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).

7. 17-22153-A-13 DONNA WELCH
APN-1
WELLS FARGO BANK, N.A. VS.

OBJECTION TO
CONFIRMATION OF PLAN
5-23-17 [23]

- ☐ 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 monthly plan payment is \$1,110 which is precisely the amount of the debtor's monthly net income. Facially, then, the plan is feasible but, as noted in the objection, the plan understates the monthly installment payment due on the objecting creditor's Class 1 claim. The plan assumes it is \$580 but as established in the objection, it is \$905.25. The debtor does not have sufficient net income to pay all claims provided for in the plan while increasing the ongoing installment to this creditor. The plan does not satisfy 11 U.S.C. § 1325(a)(6).

8. 13-24296-A-13 RHONDA MILES
MMN-6

MOTION TO
MODIFY PLAN
4-24-17 [66]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be denied and the trustee's objection will be sustained but the creditor's objection will be overruled.

The objecting creditor holds a claim secured by junior lien on the debtor's residence. When the initial plan was confirmed, the court valued the home securing the claim and determined that the objecting creditor's claim was unsecured and it was allowed as such. This objection argues that the collateral should be valued a second time as of the date the confirmation of the modified plan.

However, claims are allowed as of the petition date. 11 U.S.C. § 502(b) ("if objection to a claim is made . . . the court . . . shall determine the amount of such claim as of the date of the filing of the petition. . . ."). The purpose of valuing a creditor's collateral under 11 U.S.C. § 506(a) is to determine the amount of that creditor's secured claim. 11 U.S.C. § 506(a) ("An allowed claim . . . is a secured claim to the extent of the value of [the] creditor's interest in the estate's property. . . ."). If the claim is allowed as of the date of the filing of the petition, and if the purpose of valuing collateral is to determine the amount of a secured claim, then logically the valuation must occur as of the date of the petition. See also 11 U.S.C. § 101(10) (defining "creditor" as an "entity that has a claim against the debtor that arose at the time of or before the order for relief. . . .").

The original valuation stands.

Nonetheless, confirmation will be denied. The debtor has failed to make \$576 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).

9. 17-22398-A-13 DAVID CURTIS
JPJ-1

OBJECTION TO
CONFIRMATION OF PLAN AND MOTION TO
DISMISS CASE
5-24-17 [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 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, in violation of 11 U.S.C. § 521(a)(1)(B)(iv) and Local Bankruptcy Rule 1007-1(c) the debtor has failed to provide the trustee with employer payment advices for the 60-day period preceding the filing of the petition. The withholding of this financial information from the trustee is a breach of the duties imposed upon the debtor by 11 U.S.C. § 521(a)(3) & (a)(4) and the attempt to confirm a plan while withholding this relevant financial information is bad faith. See 11 U.S.C. § 1325(a)(3).

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

10. 16-21599-A-13 CHRISTOPHER/GLEE WOODYARD
SS-6

MOTION TO
CONFIRM PLAN
5-9-17 [170]

- ☐ 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 \$852.91 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 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 \$16,188 unsecured creditors but Form 122 shows that the debtor will have \$24,682 over the plan's duration. The problem is even more significant than this indicates because the debtor has not accurately completed Form 122. The deduction taken a deduction for mandatory pension/retirement contribution of \$1,277.81, which exceeds the \$358 stated on amended Schedule I. If the deduction on Form 122 is adjusted downward to \$358, the debtor's monthly projected disposable income will be \$1,331, enough to pay \$79,871 to unsecured creditors over the plan's duration. Because the plan will pay only \$16,188 to these creditors, it does not comply with 11 U.S.C. § 1325(b).

FINAL RULINGS BEGIN HERE

11. 14-26107-A-13 ROBIN LANGLEY MOTION TO
SJD-3 VACATE DISMISSAL OF CASE
5-30-17 [98]

Final Ruling: The court continues the hearing to June 26, 2017 at 1:30 p.m. so that it will coincide with a related motion. Any opposition to this motion shall be filed and served no later than June 19.

12. 17-22312-A-13 DELIA LARIOS OBJECTION TO
JPJ-1 CONFIRMATION OF PLAN AND MOTION TO
DISMISS CASE
5-24-17 [17]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. After the objection and dismissal motion were filed, the debtor filed a modified plan which is set for hearing on July 13 at 1:30 PM. This is a tacit admission that the original plan could not be confirmed and that the arguments of the trustee had merit. Therefore, while the objection will be dismissed as moot, the dismissal motion will be conditionally denied. Because the plan initially 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 by July 13, 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 by this deadline, the case will be dismissed on the trustee's ex parte application.

13. 17-23432-A-13 PAVEL KOROBOV MOTION FOR
WAJ-1 RELIEF FROM AUTOMATIC STAY
DANIEL DRAGNEA VS. 5-30-17 [11]

Final Ruling: The motion will be dismissed because it is moot. The case was dismissed on June 9, 2017. Consequently, the automatic stay has expired as a matter of law. See 11 U.S.C. § 362(c)(1) & (2).

14. 17-22535-A-13 MARIBEL ALONSO OBJECTION TO
JPJ-1 CONFIRMATION OF PLAN AND MOTION TO
DISMISS CASE
5-24-17 [15]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. The debtor has filed a written response to the objection and motion conceding their merit. Therefore, while the objection will be sustained, the dismissal motion will be conditionally denied. Because the plan initially 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 modified plan within 75 days, the court concludes that the prejudice to creditors will be substantial and that there will then be cause for dismissal. If the debtor has not confirmed a plan within 75 days, the case will be dismissed on the trustee's ex parte application.

15. 15-23036-A-13 CRAIG NELSON MOTION TO
TLA-3 APPROVE LOAN MODIFICATION
5-5-17 [67]

Final Ruling: This motion to modify a home loan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(b) and 9014-1(f)(1), and

June 15, 2017 at 1:30 p.m.

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 is authorized but not required to enter into the proposed modification. To the extent the modification is inconsistent with the confirmed plan, the debtor shall continue to perform the plan as confirmed until it is modified.

16. 17-21158-A-13 CAMILLE GARRETT MOTION TO
FF-2 CONFIRM PLAN
5-1-17 [25]

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

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

17. 14-21961-A-13 TERRY/ALISON YOUMANS MOTION FOR
JHW-1 ADMINISTRATIVE EXPENSES
5-8-17 [35]

Final Ruling: The court continues the hearing to July 21, 2017 at 1:30 p.m. so that the movant can file a further brief addressing the following issues: (1) how is it possible for the chapter 13 estate to incur an administrative expense when there is no estate given the revesting of all assets in the debtor. See section 5.01 of confirmed plan. (2) Why shouldn't this court follow the Sixth Circuit's decision in In re Parmentor, 527 F.3d 606 (6th Cir. 2008), which concluded that the confirmation of a chapter 13 plan that assumes a vehicle lease and requires the debtor to make direct lease payments obligates only the debtor, not the bankruptcy estate. Therefore, the estate incurs no administrative liability for post-assumption breach damages. (3) The movant shall explain why it failed to cite the court to the authority adverse to its position. The movant shall file and serve its brief by July 10. The debtor and the trustee may file and serve a brief on or before July 17.

18. 16-21599-A-13 CHRISTOPHER/GLEE WOODYARD
SS-7

MOTION TO
APPROVE LOAN MODIFICATION
5-9-17 [176]

Final Ruling: This motion to modify a home loan 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 is authorized but not required to enter into the proposed modification. To the extent the modification is inconsistent with the confirmed plan, the debtor shall continue to perform the plan as confirmed until it is modified.