

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 23, 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 NOVEMBER 20, 2017 AT 1:30 P.M. OPPOSITION MUST BE FILED AND SERVED BY NOVEMBER 6, 2017, AND ANY REPLY MUST BE FILED AND SERVED BY NOVEMBER 13, 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 16 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 OCTOBER 30, 2017, AT 2:30 P.M.

October 23, 2017 at 1:30 p.m.

Matters to be Called for Argument

1.	17-20405-A-13	EFREN/ELIZABETH	MOTION TO
	DBJ-6	MEMORACION	CONFIRM PLAN
			9-6-17 [140]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

Tentative Ruling: The motion will be granted and the objection will be overruled.

The objecting creditor holds a secured claim. The plan neither makes provision for the payment of this claim or modifies it in any way.

11 U.S.C. § 1322(a) is the section of the Bankruptcy Code that specifies the mandatory provisions of a plan. It requires only that the debtor adequately fund the plan with future earnings or other future income that is paid over to the trustee (section 1322(a)(1)), provide for payment in full of priority claims (section 1322(a)(2) & (4)), and provide the same treatment for each claim in a particular class (section 1322(a)(3)). But, nothing in section 1322(a) compels a debtor to propose a plan that provides for a secured claim.

11 U.S.C. § 1322(b) specifies the provisions that a plan may, at the option of the debtor, include. With reference to secured claims, the debtor may not modify a home loan but may modify other secured claims (section 1322(b)(2)), cure any default on a secured claim, including a home loan (section 1322(b)(3)), and maintain ongoing contract installment payments while curing a pre-petition default (section 1322(b)(5)).

If a debtor elects to provide for a secured claim, 11 U.S.C. § 1325(a)(5) gives the debtor three options: (1) provide a treatment that the debtor and secured creditor agree to (section 1325(a)(5)(A)), provide for payment in full of the entire claim if the claim is modified or will mature by its terms during the term of the plan (section 1325(a)(5)(B)), or surrender the collateral for the claim to the secured creditor (section 1325(a)(C)). However, these three possibilities are relevant only if the plan provides for the secured claim.

When a plan does not provide for a secured claim, the remedy is not denial of confirmation. Instead, the claim holder may seek the termination of the automatic stay so that it may repossess or foreclose upon its collateral. The absence of a plan provision is good evidence that the collateral for the claim is not necessary for the debtor's reorganization and that the claim will not be paid. This is cause for relief from the automatic stay. See 11 U.S.C. § 362(d)(1).

2.	14-24317-A-13	JOHN BAXTER AND PATRICI	MOTION TO
	CA-3	GRIFFIN RICE BAXTER	APPROVE COMPENSATION OF DEBTORS'
			ATTORNEY
			9-25-17 [74]

- ☐ 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.

The motion seeks approval of \$6,337.59 in fees and \$281 in costs (the filing fee) incurred in filing and prosecuting this chapter 13 case. Prior to the filing of the case, counsel received \$1,519 in fee and the \$281 for the filing fee which was paid to the court. This motion seeks payment of the remaining \$4,818.50 through the plan as an administrative expense. These fees are within the \$5,000 estimate of fees in the confirmed plan. The foregoing represents reasonable compensation for actual, necessary, and beneficial services rendered to the debtor.

3. 13-21020-A-13 LYUDMILA/SAMVEL MOTION TO
PGM-8 TATINTSYAN SELL
10-9-17 [102]

- ☐ 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 to sell real property will be granted on the condition that the sale proceeds are used to pay all liens of record in full in a manner consistent with the plan. If the proceeds are not sufficient to pay liens of record in full (including liens ostensibly "stripped off"), no sale may be completed without the consent of each lienholder not being paid in full.

4. 14-25729-A-13 ROMUALDO TAVORA MOTION TO
CA-4 APPROVE COMPENSATION OF DEBTOR'S
ATTORNEY
9-29-17 [56]

- ☐ 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.

The motion seeks approval of \$6,037.50 in fees and \$281 in costs (the filing fee) incurred in filing and prosecuting this chapter 13 case. Prior to the filing of the case, counsel received \$1,500 in fees and the \$281 for the filing fee which was paid to the court. This motion seeks payment of the remaining \$4,537.50 through the plan as an administrative expense. These fees are within the \$5,000 estimate of fees in the confirmed plan. The foregoing represents reasonable compensation for actual, necessary, and beneficial services rendered to the debtor.

5. 16-24032-A-13 IGNACIO LAUDER AND WILMA MOTION TO
MET-7 FRONDA APPROVE COMPENSATION OF DEBTORS'
ATTORNEY
9-30-17 [83]

- ☐ 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.

The motion seeks approval of \$4,322.50 in additional fees incurred principally in connection with the sale of the debtor's home and obtaining confirmation of a second modified plan. 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.

6. 17-26434-A-13 TRINA ENOS MOTION TO
PLG-1 EXTEND AUTOMATIC STAY
10-2-17 [8]

- ☐ 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 denied.

This is the second chapter 13 case filed by the debtor. A prior case was filed and dismissed within one year of this current petition.

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.

To the extent the motion seeks a declaration that in the event the automatic stay expires as to the debtor pursuant to 11 U.S.C. § 362(c)(3), the automatic stay continues as to the property of the estate, the motion will be denied. First, the court does not give declaratory judgments without an adversary proceeding. See Fed. R. Bankr. P. 7001. Second, the authority in the Ninth Circuit is to the contrary. See In re Reswick, 446 B.R. 362 (BAP 9th Cir. 2011).

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. In that case, which was filed on January 6, 2016 and dismissed on September 6, 2017, the debtor reported her net income as \$3,567.82 and her

monthly household expenses at \$2,820, leaving monthly net income of \$747.82 with which to fund a plan. A plan was confirmed but when the debtor was unable to maintain her plan payments, the case was dismissed.

This motion does not establish that the debtor will be any more successful in this case. The schedules in this case report monthly net income of \$3,418.56 (a slight decrease from the prior case) and household expenses of \$2,859 (a slight increase), and monthly net income of \$559.56 (a decrease). Based on this, the court must conclude that the debtor's financial situation has not changed appreciably. The court cannot conclude that this case is more apt to succeed. On the contrary, the court concludes that this case is unlikely to succeed.

The motion argues that because the debtor received a chapter 7 discharge in 2013 chapter 7 case, she was required to provide a 100% dividend in her prior case. That is not correct. While the debtor was not eligible for a chapter 13 case in the prior chapter 13 case by virtue of 11 U.S.C. § 1328(f)(1), and will be eligible for a chapter 13 discharge in this case (because it was filed one year and a day after the prior chapter 7 case), this has no impact on the court's conclusion.

First, ineligibility for a chapter 13 discharge does not require a 100% dividend be paid to nonpriority unsecured claims. It means that, to the extent such claims are not paid, they will survive the consummation of the chapter 13 plan.

Second, in the first chapter 13 case the plan provided for a 100% dividend to holders of \$8,894.74 in nonpriority unsecured claims. In this case the debtor is proposing a 42% dividend to holders of \$22,013.70 in nonpriority unsecured claims. Thus, the amount the debtor must pay actually increases in this case (from \$8,894.74 to \$9,245.75).

7. 17-22962-A-13 EBI FINI
MAC-2

MOTION TO
TRANSFER PROPERTY TO FORMER SPOUSE
10-3-17 [40]

- ☐ 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 denied.

In essence, the debtor proposes transferring community property to a former spouse pursuant to a divorce decree that divides the community property. The nondebtor former spouse will receive a residential property and \$120,000 from retirement and savings accounts.

Neither the real property nor the accounts were declared exempt by the debtor.

Because both of these assets are identified as community property, they are property of the bankruptcy estate. See 11 U.S.C. § 541(a)(2).

There is a confirmed plan in this case. The plan will not be completed until April 2022.

Because the assets to be transferred is community property that is nonexempt property of the estate, in the event of conversion to chapter 7, these could be liquidated by the trustee for the benefit of creditors. Transferring the assets to the nonfiling former spouse as her separate property could be to the disadvantage of these creditors.

Further, this motion was not served on any creditors even though they are potentially prejudiced by the transfer.

8. 17-22996-A-13 ANGELINA ROBINSON
RS-1

MOTION TO
CONFIRM PLAN
9-11-17 [33]

- ☐ Telephone Appearance
- ☐ Trustee Agrees with Ruling

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

First, Local Bankruptcy Rule 2002-1(c) provides that notices in adversary proceedings and contested matters that are served on the IRS shall be mailed to three entities at three different addresses: (1) IRS, P.O. Box 7346, Philadelphia, PA 19101-7346; (2) United States Attorney, for the IRS, 501 I Street, Suite 10-100, Sacramento, CA 95814; and (3) United States Department of Justice, Civil Trial Section, Western Region, Box 683, Franklin Station, Washington, D.C. 20044. Service in this case is deficient because the IRS was not served at the second and third of these addresses.

Second, the debtor has failed to make \$2,013 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).

Third, because the debtor has failed to make payments or timely payments since June, the trustee has been unable to maintain the monthly mortgage payments due on the Class 1 claim of Bank of America as required by the plan and its predecessor. 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 Bellingier, 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 Bank of America. 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).

- ☐ 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 because the debtor failed to maintain her plan payments.

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 payments in the first case due to her husband's ultimately fatal illness. Since the death of her spouse the debtor remains employed as has a life insurance benefit to aid in her reorganization. This is a sufficient change in circumstances rebut the presumption of bad faith.

10. 17-26397-A-13 HELEN CASACLANG
MET-2
VS. TRAVIS CREDIT UNION

MOTION TO
VALUE COLLATERAL
10-9-17 [13]

- ☐ 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 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 \$11,375 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, \$11,375 of the respondent's claim is an allowed secured claim. When the respondent is paid \$11,375 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.

FINAL RULINGS BEGIN HERE

11. 17-26233-A-13 JEFFREY/CHRISTINA COOK MOTION TO
MJD-1 VALUE COLLATERAL
VS. CHASE AUTO FINANCE 9-20-17 [8]

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 \$10,213 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, \$10,213 of the respondent's claim is an allowed secured claim. When the respondent is paid \$10,213 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.

12. 17-26233-A-13 JEFFREY/CHRISTINA COOK MOTION TO
MJD-2 VALUE COLLATERAL
VS. CHASE AUTO FINANCE 9-20-17 [12]

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 \$16,041 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, \$16,041 of the respondent's claim is an allowed secured claim. When the respondent is paid \$16,041 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.

13. 17-25761-A-13 ERIC FRANCOIS

ORDER TO
SHOW CAUSE
10-4-17 [30]

Final Ruling: The order to show cause will be discharged as moot. The case was dismissed on October 11.

14. 17-23166-A-13 ROBERT GODFREY

ORDER TO
SHOW CAUSE
10-6-17 [41]

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

The debtor filed amended schedules in order to add additional creditors. This triggered a \$31 filing fee pursuant to 28 U.S.C. § 1930(b). It was not paid with the amendment but it was later paid. Despite the late payment, no prejudice resulted. Therefore, the petition shall remain pending.

15. 17-25178-A-13 JOHN JACKSON
PGM-1
VS. ELITE ACCEPTANCE CORPORATION

MOTION TO
VALUE COLLATERAL
9-19-17 [18]

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 \$8,000 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, \$8,000 of the respondent's claim is an allowed secured claim. When the respondent is paid \$8,000 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.

16. 17-26184-A-13 DEREK/AMIE REDMAN
MJD-1
VS. CAPITAL ONE, N.A.

MOTION TO
VALUE COLLATERAL
9-25-17 [9]

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 \$8,400 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, \$8,400 of the respondent's claim is an allowed secured claim. When the respondent is paid \$8,400 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.