



Opinion 529

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Opinion Title: 05/12/2009 UNPUBLISHED In re Timothy, Case No. 08-28332, Judge Mosier.

Body: Chapter 13 Debtors' Official Form 22C reflected Current Monthly Income of \$6,181.31 which exceeded the median family income for a household of the same size in Utah. The Debtors' monthly Disposable Income reflected on Form 22C was -\$188.70 (negative \$188.70). Trustee objected to confirmation arguing that because this is an above-median income case, the applicable commitment period requires 60 monthly payments under § 1325(b)(4)(A)(ii)(II). Debtors' Schedules I and J disclosed total monthly income of \$4,910.00 and total monthly expenses of \$4,780.00, resulting in Schedule J monthly net income of \$130.00. Debtors' plan proposed payments of \$130.00 per month for so long as necessary to return \$1,750.00 to non-priority unsecured creditors. The court held; (1) when a debtor's Form 22C Disposable Income is negative, in order for the debtor to propose a confirmable chapter 13 plan, projected disposable income under § 1325(b)(1)(B) may be calculated using Schedules I and J, and (2) when a debtor's Current Monthly Income is above the applicable state median income the "applicable commitment period" is defined by § 1325(b)(4) and is 60 months in all instances. The Court also held that when debtors include social security income to calculate a positive projected disposable income, all of the debtors' projected disposable income, including any amount attributable to social security income, to be received in the applicable commitment period must be applied to make payments under the chapter 13 plan.

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Judge: [Chief Judge R. Kimball Mosier](#) [2]

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