

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
(Baltimore Division)

In re:

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Paul J. Boben

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Case No. 08-17638-NVA  
(Chapter 13)

Debtor

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**ORDER OVERRULING IN PART AND SUSTAINING IN PART CHAPTER 13  
TRUSTEE'S OBJECTION [DOC. 17] TO CONFIRMATION OF DEBTOR'S AMENDED  
CHAPTER 13 PLAN [DOC. 14] AND DENYING DEBTOR'S AMENDED CHAPTER 13  
PLAN [DOC. 14] BUT WITH LEAVE TO AMEND**

Paul J. Boben, the debtor herein (the "Debtor" or "Mr. Boben"), proposed an amended chapter 13 plan [14] calling for payments in the amount of \$425.12 per month over a period of 60 months and a confirmation hearing was held. The chapter 13 trustee, Ellen W. Cosby ("Ms. Cosby" or the "Trustee"), filed objections to the proposed amended plan, which questions whether the Debtor has devoted all of his disposable income to the plan in accordance with § 1325 (b) of the Bankruptcy Code<sup>1</sup>. For reasons set forth herein, the Court finds that the Debtor has devoted all of his projected disposable income to the chapter 13 plan and accordingly overrules the objections of the Trustee and denies the amended chapter 13 plan but with leave to amend.

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<sup>1</sup> All code sections refer to the United States Bankruptcy Code, title 11 of the United States Code.

The Debtor is married and his spouse is not employed outside the home. She is not a joint petitioner and has not sought relief from this Court. The Debtor has no dependants other than his wife. The Debtor is employed as an economist at the Center for Medicaid and Medicare Services and has a gross annual income in the amount of \$114,962.76 (\$9,580.23 per month). The Debtor asserts that after deduction of stated expenses, his available projected disposable income to commit to a chapter 13 plan is \$425.12 per month. The Trustee objects to certain budgeted expenses of the Debtor and alleges the Debtor has failed to dedicate all disposable earnings to the Plan and has not filed the Plan in good faith. *See* [doc. 17].

A. Legal Standard

Chapter 13 permits an individual debtor with a regular source of income to be discharged from certain debts after the completion of a bankruptcy plan that meets the requirements of the Bankruptcy Code. One requirement is that a chapter 13 debtor must dedicate all of his or her “projected disposable income” to the plan. Specifically, pursuant to section 1325 (b)(1)(B) of the Bankruptcy Code, a chapter 13 plan may not be approved over the trustee’s objection unless “the plan provides that all of the debtor’s projected disposable income to be received in the applicable commitment period...will be applied to make payments to unsecured creditors under the plan.”

As part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”), Congress amended the way a debtor should calculate what constitutes “disposable income” for purposes of § 1325 (b)(2). Disposable income is the debtor’s “current monthly income” minus “amounts reasonably necessary to be expended.”<sup>2</sup> *See* § 1325 (b)(2). This

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<sup>2</sup> Many of the expenses incurred by debtors are identified in §707 (b)(2), which governs “allowable expenses” for chapter 7 debtors. Section 1325 (b)(3) provides that a chapter 13 debtor’s expenses must conform to these same standards. §707 (b)(2)(A)(ii) makes reference to National and Local Standards developed by the Internal Revenue

calculation, referred to as “means testing,” is designed to determine whether debtors with above-median-income have sufficient disposable income to repay at least a portion of their debts. In a chapter 13, “means testing” is designed not only to determine whether a debtor has sufficient disposable income to repay their debts, but is also determinative of the amount of disposable income available to the debtor and the “applicable commitment period” of their chapter 13 Plan. Mr. Boben is an above-median-income debtor, also known as an “above-guidelines” debtor.

The term “projected disposable income” is not defined in the Bankruptcy Code. However, the term “projected” in this context means, a projection that takes into account past events while making adjustments for other factors that may affect the outcome. *Hamilton v. Lanning*, 130 S.Ct. 2464, 2471-2472 (2010). For an above guidelines debtor, the term “projected disposable income,” for purposes of determining a plan’s confirmability upon an objection by a Trustee, is the numeric figure that results after all mathematical computations are made on Bankruptcy Form 22C. *In re Watson*, 366 B.R. 523 (Bankr. D.Md. 2007). Form 22C, entitled “Chapter 13 Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income,” is completed by the debtor and filed with the bankruptcy petition. A debtor also completes and files with the bankruptcy petition, certain schedules of assets and liabilities labeled Schedules “A” through “J”. Schedule “I” reports income and income sources, and Schedule “J” reports expenses and operates as a debtor’s “budget.” Form 22C and the Schedules may, and frequently do, contain different calculations. Form 22C instructs a debtor to complete the form using the average monthly income received from all sources in the six calendar months prior to the date of the petition. In essence, this form is “backward” looking and uses an approach best analogized with the adage that the best predictor of future behavior is past

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Service for such categories as housing, food, clothing and transportation, and limits allowable expenses to the ceilings set forth in those National and Local Standards.

behavior. Schedule “I” however, directs a debtor to complete the form making a projection of income, from the petition date.

The Supreme Court in *Lanning* addressed what should occur in circumstances in which the calculations in the Schedules differ from those on Form 22C and how a court is to take into account changes to a debtor’s income and expenses. It discusses the potential conflict between Form 22C and Schedule I. The Court does not determine that “projected disposable income” must be calculated using one form over the other. The Court does, however, embrace the notion that the calculation of income for these purposes should be “forward looking.” In *Watson*, the bankruptcy court held that a chapter 13 plan that is based upon a debtor’s projected earnings and projected expenses (as reported on Schedules I and J) may be confirmed only if the debtor can rebut the presumptive validity of the calculations derived from Form 22C with evidence of a “substantial change in circumstance.” *Id.* at 531.<sup>3</sup> In the instant case no evidence was admitted at the confirmation hearing by either party.<sup>4</sup> In the absence of such evidence, the Court will thus turn to Form 22C to determine what amount will constitute Mr. Boben’s “projected disposable income.” The Court will not arbitrarily increase the projected plan payment beyond the amount presumptively available as set forth on Form 22C.<sup>5</sup> Likewise, the Court will not allow the debtor to make a payment lower than the amount presumptively available on Form 22C simply because there are differences in the forms. *See In re White*, 409 B.R. 330, 334 (Bankr. D.Md. 2009). In

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<sup>3</sup> The Court notes that while the decision of *Watson* predates *Lanning*, it is consistent with the Supreme Court’s view of the issue and provides guidance as to which form a court should utilize in determining “projected disposable income.”

<sup>4</sup> The Trustee argues that the Debtor’s paystub shows monthly net income in excess of \$472 of that which Debtor reported in his budget. *See* [doc. 17]. However, the Debtor’s paystub was not introduced into evidence at the confirmation hearing and is not being considered as part of this ruling.

<sup>5</sup> The Trustee argues that the Debtor could support a Plan payment more than double the amount derived from Form 22C.

order to address the Trustee's objections, the Court will make a line-by-line review of the Debtor's expenses as reflected on Form 22C.

First, the Trustee alleges that based on calculations set out in Form 22C, the Debtor has disposable income in the amount of \$811.23 per month. *See* [doc. 17]. The Trustee's computation fails to acknowledge that the Debtor has further expenses listed on Part VI of the form entitled "Additional Expense Claims," at Lines 60 a, b and c. Here, as "Additional Expense Claims," the Debtor lists "Professional Expenses" in the amount of \$28.53, Spouse's "Student Loan" expenses in the amount of \$265.14, and "Adoption" expenses in the amount of \$129.85 (each expense per month), totaling \$423.52. For purposes of calculating the Debtor's Monthly Disposable Income, neither the Trustee nor the Debtor (in doing the arithmetic on Form 22C) has included these three expenses. If this Court finds that the expenses listed on Lines 60 a, b and c are required for the health and welfare of the Debtor and his family, as contemplated by the allowable expense itemization set forth in § 707(b)(2)(A)(ii)(I), the Debtor's disposable income would be reduced to \$387.71. *See* [doc. 13], (This amount results from deducting Lines 60 a, b and c from Line 59).

In keeping with *Watson*, because in the absence of evidence, the Court can only review Form 22C, the Court will construe the Trustee's objections as objections to Form 22C. As stated, Mr. Boben is an above-guidelines debtor and accordingly, the Court finds that it should look to Form 22C to determine Mr. Boben's projected disposable income, for purposes of assessing whether he has dedicated all of his projected disposable income to the Plan for confirmation purposes.<sup>6</sup>

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<sup>6</sup> The Court notes that the calculations and determinations herein are more easily understood by the reader when this ruling is read in conjunction with the Debtor's Form 22C [doc. 13].

B. The Trustee's Objections to Expense Items

1. The Trustee Objects to a \$21.67 Expense Item for a "Savings Plan"

The Trustee has objected to a \$21.67 deduction from the Debtor's wages that she claims appears to be a deduction for a savings plan. The deduction, however, is actually the monthly cost of a gym membership associated with Debtor's work benefits, as is evident from the Debtor's Schedule I [doc. 10]. The Court finds this to be a reasonably small amount to pay on a monthly basis for a gym membership to provide for health and recreation. The cost does not suggest that the Debtor has joined a luxury facility. The expense is reasonable and the Debtor has properly excluded it from Form 22C as a separate itemized expense. An expense of this variety would be envisioned in the "National Standards," in the "miscellaneous" category at Line 24A. Mr. Boben is not claiming an expense in an amount beyond the amount allowed for this category ("miscellaneous") by the National Standards.<sup>7</sup> The Court overrules the Trustee's objection to this expense.

2. The Trustee Objects to a \$461.41 Expense Item for a "Retirement Plan" Contribution

The Debtor is a federal employee. He contributes to the federal thrift savings plan in the above amount per month. The thrift savings plan is a governmental plan under section 414 (d) of the Internal Revenue Code. Contributions to such plans are excluded from the calculation of disposable income under BAPCPA. *See, e.g., In re Lipford*, 397 B.R. 320 (Bankr. M.D.N.C. 2008) (Voluntary contributions to qualified retirement plans should not be considered when calculating disposable income.); *In re Devilliers*, 358 B.R. 849, 864 (Bankr.E.D.La.2007) (voluntary contributions to qualified retirement plans should not be considered when calculating disposable income). Line 55 of Form 22C specifically contemplates reduction of disposable

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income by the amount of a debtor's "Qualified retirement deductions". Line 55 of Mr. Boben's Form 22C claims a deduction of \$1,024.91. Line 55 contemplates that a Debtor will include contributions to qualified plans as well as required repayment of loans from retirement plans. Of the amount claimed by Mr. Boben, the Trustee appears to have objected to the amount of \$461.41 per month.

Such a deduction would be objectionable if there is evidence that the debtor is acting in bad faith, as, for example, where a debtor substantially increases the deduction amount on the eve of his bankruptcy filing. *See In re Aiello*, 284 B.R. 756 (Bankr.E.D.N.Y.2002) (debtor was not near retirement, had no dependents, had quadrupled his voluntary 401(k) contributions immediately prior to filing under chapter 7). In the absence of any evidence of impropriety, the Court finds that Mr. Boben's contribution level is not excessive and accordingly, Line 55 of Form 22C will remain unchanged. The Trustee's objection to the Debtor's retirement plan contribution of \$461.41 is overruled.

3. The Trustee Objects to a \$166.67 Expense Item (Reduced to \$56.10) for Repayment of a Life Insurance Loan

The Trustee claims this expense to be excessive and unnecessary. The Debtor explains that this loan is secured by a whole life insurance policy and argues that it should be allowed in the same manner as would a payment on any other secured debt. Notwithstanding his position however, the Debtor voluntarily reduced his payments to this creditor to \$56.10 per month, which amount represents an interest-only payment on the loan. Even though this expense is listed on Line 47b of Form 22C, it appears to be reasonably necessary for the welfare of Debtor's family and thus allowable as an expense on Line 60 of Form 22C.<sup>8</sup>

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<sup>8</sup> The Court declines to decide whether a loan on a life insurance policy is properly included on Form 22C Line 47 as a payment on a secured debt.

4. The Trustee Objects to Expense Items of \$167.23 for Telephone, \$230.00 for Home Maintenance, \$675.00 for Food, \$275.00 for Clothing & \$200.00 for Recreation

As stated earlier, because Mr. Boben is an above-guidelines debtor, pursuant to § 1325 (b) (3), the allowance of his expenses must be assessed in accordance with the National and Local Standards as determined by the Internal Revenue Service, where categories are established for particular expenses. *In re Osei*, 389 B.R. 339 (Bankr. S.D.N.Y. 2008) (Internal Revenue Service Standards provide for exact amounts to be used in specific categories when determining a debtor's disposable income). The expenses in this category, *i.e.*, telephone, home maintenance, food, clothing and recreation, are expenses that fall into categories that have been specifically established by the IRS guidelines.<sup>9</sup> The IRS local guidelines for monthly expenses in these categories as of the Debtor's petition date are (i) housing (rent/mortgage) expenses for a family of two in Howard County Maryland is \$1,678.00, (ii) non-rent/mortgage (utilities) expense for a family of two in Howard County, Maryland is \$428.00, (iii) vehicle operation costs for a two-car family in Baltimore<sup>10</sup> is \$434.00, and (iv) vehicle ownership costs for a two-car family in the South Census Region<sup>11</sup> is \$489 per car or \$978.00. The national IRS allowance for food, apparel and services, housekeeping supplies, personal care, and miscellaneous for a two-person family is \$961.00 per month and the national allowance for out-of-pocket healthcare for a two-person

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<sup>9</sup> The guidelines for Maryland can be found at:  
[http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci\\_data/housing\\_charts/irs\\_housing\\_charts\\_MD.htm](http://www.usdoj.gov/ust/eo/bapcpa/20080317/bci_data/housing_charts/irs_housing_charts_MD.htm)

<sup>10</sup> IRS Local Transportation Expense Standards for vehicle operating costs are divided by Census Regions, Maryland falls within the South Census Region. The South Census Region is then divided into "Metropolitan Statistical Areas (MSAs) Within the South Census Region," and for Harford County, Maryland, the requisite MSA is Baltimore.

<sup>11</sup> IRS Local Transportation Expense Standards for Ownership Costs of a vehicle are not divided by MSAs.



family is \$114.00.<sup>12</sup> The Court now addresses these expenses *seriatim* in the context of the Trustee's objection.

a. The \$167.23 telephone expense.

The Court believes that Debtor's telephone expense would be included under the National and Local Standards either within the \$961.00 amount allowed for "food, apparel and services, housekeeping supplies, personal care, and miscellaneous" (Line 24A of Form 22C), or within the \$428.00 "housing and utilities; non-mortgage expenses" (Line 25A). The exact amount the Debtor claims for telephone expense is not specified on Debtor's Form 22C, but the Debtor claims telecommunication expenses in excess of Line 37, in excess of the National and Local Standards allotment. The Trustee states generally that the Debtor's telephone expense is excessive. Absent evidence to the contrary (and none was presented at the hearing), the Court cannot find that the Debtor's telecommunication service expense in excess of the National and Local Standards are necessary for the health and welfare of himself or his dependents. Accordingly, the Court sustains the Trustee's objection to the excessive telephone expense and disallows the expense as listed on Line 37 of Form 22C.

b. The \$230.00 home maintenance and \$200.00 recreation expenses.

The Debtor has made no expense claims for home maintenance and recreation expenses on Form 22C that exceed the National and Local Standards. The Trustee's objection to these expenses is overruled.

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<sup>12</sup> This Court agrees with those courts that have determined that a debtor is entitled to the full amount of the IRS allowance, even if the debtor does not actually currently incur expenses in that amount. Debtors who incur large car loans immediately prior to filing for bankruptcy protection should not be rewarded with a greater exemption from income and debtors who live frugally and pay their loans should not be penalized with a smaller exemption. *See In re Ross-Tousey*, 549 F.3d 1148 (7<sup>th</sup> Cir. 2008) (Relying on a plain reading analysis and finding that "applicable" expense amount, as allowed by statute, does not mean "actual.")

c. The \$675.00 food and \$275.00 clothing expenses.

The Debtor makes a claim on Line 44 of Form 22C for an “additional food and clothing expense” in excess of what the Local and National Guidelines provide, of \$34.00. The Debtor has not demonstrated this excess amount to be reasonable and necessary. The Court disallows this expense. The remainder of the claimed expense in this category (found on Line 24A) is within the amounts established by the Local and National Guidelines, and is allowed.

5. The \$200.00 Life Insurance Expense

The Trustee maintains that the Debtor’s \$200 monthly payment for life insurance is excessive and unreasonable. “Like other budget items, whether a life insurance premium is a necessary expense is a matter which must be determined on a case-by-case basis.” *Smith v. Spurgeon (In re Smith)*, 207 B.R. 888, 890 (B.A.P. 9th Cir.1996). Mr. Boben is the sole support for his family. The Court believes that it is reasonable for him to maintain life insurance in some form and in some amount. The problem with the Debtor’s life insurance policy is that it is a whole life policy which is more akin to an investment or savings vehicle rather than a simple (term) life insurance policy. *See In re DeRosear*, 265 B.R. 196, 211 (Bankr. S.D. Iowa 2001) (“[T]he Court agrees that whole life insurance policies amount to savings vehicles and expenditures for such policies should typically be disallowed.”). *But see, In re Gonzales*, 297 B.R. 143 (Bankr. D.N.M. 2003) (finding that \$73.00 per month for term life insurance policy of debtor who made \$7.00 per hour was reasonable); *In re Husemann*, 2001 WL 1757048 (Bank D.N.H. 2001) (finding that \$568.00 per month for life insurance for commercial pilot was reasonable for the support of his wife). There is no evidence before the Court as to the face amount of the policy, the current insurability of Mr. Boben or the cost of a term life insurance policy with adequate coverage. Nonetheless, Mr. Boben did not claim any deduction for this

expense on Form 22C. The Trustee's objection to this item is to its inclusion on the Debtor's Schedules and, as the Court has explained, it will address the Trustee's expense objections herein only in relation to Debtor's Form 22C. Accordingly, the Trustee's objection is overruled.

6. The \$254.99 Spouse's Car Loan Expense

The Debtor maintains that this expense is reasonable and necessary for the support of his dependent spouse. The Trustee objects. The IRS guidelines recognize the existence of two-vehicle households by including in the guidelines expenses associated with owning and operating two vehicles. There is no requirement that every vehicle owner be a debtor or be employed outside the home. Separately, the Court notes that Mr. Boben has explained that his wife has sought employment and presumably will need a car. *See* [doc. 24]. With no alternative means to make her car payment other than Mr. Boben's wages, Mrs. Boben would in essence be required to give up her vehicle, possibly preventing her from accepting employment opportunities for which a second vehicle in the household may be necessary.

Even with the inclusion of this vehicle expense, Mr. Boben's second vehicle ownership costs continue to be below the IRS expense allowances. His "average monthly payment for any debt secured by vehicle 2" is less than what the IRS allows as an "ownership cost" for a second vehicle. The Debtor properly includes the operation expense on Line 27A, but fails to properly list the ownership expense on Line 29b. While payment for his spouse's car is an allowable expense, Mr. Boben has argued that he is responsible as the sole-income producer in the family to make the secured debt payment on the vehicle and as such must reduce Line 29 c. by \$254.99, the amount of his spouse's car payment. The Court therefore reduces Line 29 c. on Form 22C to

\$234.01 and sustains the Trustee's objection to this extent.<sup>13</sup>

7. The \$129.85 Adoption Expenses

The Trustee objects to the expenditure of funds by the Debtor in an effort to adopt a child. The Court does not believe that the bankruptcy process was intended to chill one's ability to build a family, including by adoption. The Supreme Court has held that the protections of the Due Process Clause of the Fifth Amendment guarantee more than fair process. *Washington v. Glucksberg*, 521 U.S. 702 at 719, (citations omitted). The Court has stated that "[t]he Clause ... provides heightened protection against government interference with certain fundamental rights and liberty interests, including the rights to marry, to have children, to direct the education and upbringing of one's children, to marital privacy, to use contraception, to bodily integrity, and to abortion." *Glucksberg*, 521 U.S. at 720. This Court will not dictate to individual debtors that they may not adopt, any more than it would direct a debtor couple not to conceive. Family planning is a highly personal decision best left to individuals, their physicians and their confidants. *See also, In re Johnson*, 400 B.R. 639 (Bankr. N.D. Ill. 2009) (inherently recognizing a debtor's right to adopt a child by stating that "[a] debtor will have higher expenses after the birth or adoption of a child; a debtor will have lower expenses after a formerly dependent child becomes self-sufficient."); *In re Pino*, 268 B.R. 483 (Bankr. W.D. Tex. 2001) (commenting that debtor had increased net income during the course of his case as a result of the finalization of his adoption and the termination of foreign adoption-related expenses). Accordingly, the Court finds Mr. Boben has adequately proven this expense to be required for the welfare of his family and as such, it is an allowable expense on Line 60 of Form 22C.

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<sup>13</sup> As is the case with so much of the analysis done in this ruling, it helps the reader to review this ruling in conjunction with the actual form [doc. 13]. To assist with the understanding of the ruling it must be observed that line 29 has three sections – a, b and c. Line a is the IRS Transportation Standards for Vehicle Ownership Costs. Line b is the Average Monthly Payment for any debt secured by the vehicle. Line c is the result of deducting line b from line a and that resulting number is the allowable expense.

8. The \$265.14 Spouse's Student Loan Expense

The Trustee does not provide a rationale for her objection that this payment by the Debtor, for his wife's student loan, is excessive. The Debtor argues that it makes economic sense that this loan be paid because it is not the type of debt that would be dischargeable even if his wife were to file her own petition. There are no further opportunities for forbearance on this loan short of his wife returning to school. Even then, such a forbearance would only operate to lessen the debt burden by \$50 per month. If left unpaid, the Debtor argues, this loan would continue to accrue interest and leave the Debtor and his wife in a precarious financial position at the conclusion of the Debtor's five-year chapter 13 plan.

The student loan re-payment is a debt of Mr. Boben's spouse. Even if it were his own, student loans are generally not dischargeable in bankruptcy. *See Ekenasi v. Education Resources Inst.*, 325 F.3d 541, 545 (4<sup>th</sup> Cir. 2003). Mr. Boben's spouse is not employed; she is his dependant and he is the sole economic support for the household. [doc. 24]. In different circumstances, a spouse's income has been considered when a court is determining whether a debtor has enough disposable income to re-pay a student loan. *See, e.g., In re Murphy*, 305 B.R. 780 (Bankr. E.D. Va. 2004) (denying debtor's motion for a hardship discharge of her student loans because the court found there was sufficient disposable income based on her non-debtor spouse's salary to maintain a minimal standard of living while repaying the debt). There is no reason to deviate from the practice of considering this one-income family unit as a single economic entity for these purposes. In these circumstances, it is not inappropriate that Mr. Boben continue to make payments on account of this loan. Accordingly, it is an expense necessary for the welfare of the Debtor's family and an allowable expense on Line 60 of Form 22C.

9. The \$35.32 Pet Care Expense

The Trustee has objected to a \$35.42 monthly expense for care of the Boben family cat. The Debtor explains that he has one cat, Kafka, whom he considers his responsibility and a part of the family. First, the Debtor has only one pet and the amount claimed is reasonable for the monthly feeding and care of a pet. A debtor's dependents may include the family pets, as well as dependent elderly parents, and neither should become a helpless casualty of a family's financial crisis if it can reasonably be avoided. As long as the Debtor is ready and willing to provide the pet with a loving home, the Debtor should not be prohibited by the bankruptcy process from continuing to do so. The aggregate harm to the creditors, if any, is *diminimus*. In a different context, the Fourth Circuit has allowed a debtor's expenses for pets. *See, e.g., Floyd v. Educational Credit Management Corp.*<sup>54</sup> Fed.Appx. 124 (4<sup>th</sup> Cir. 2002) (commenting that the bankruptcy court's finding that the debtor's expenses for certain items, including pet care, were reasonable was not clearly erroneous); *See also, In re Cohen*, 246 B.R. 658 (Bankr. D. Colo. 2000) (finding that \$100 per month for the care of two dogs was reasonable). *But see, In re Gray*, 2009 WL 2475017, \*3 (Bankr.N.D.W.Va. 2009) ("Spending \$750.00 per month on animals that provide no necessary service to the Debtor is unreasonable and unnecessary--the Debtor cares for these dogs only out of a feeling of moral responsibility. The court will therefore disallow this expense from the Debtor's budget.") This Court finds that the Debtor's claimed pet care expense is reasonable, and although the Debtor neglected to do so, is an appropriate expense to have been listed on Line 60 of Form 22C.

B. Projected Disposable Income

As there has been no evidence before the Court that would warrant a deviation from the presumptive calculation of projected disposable income for this above-guidelines Debtor, and in

accordance with the Court's above rulings on the objections by the Trustee, the Court holds that the Debtor's Form 22C shall be modified as follows:

	<u>Amount as Filed</u>	<u>Amount as Changed</u>
Line 29b.	\$0.00	<b>\$254.99</b>
Line 29c.	\$489.00	<b>\$234.01</b>
Line 37	\$33.00	<b>\$0.00</b>
Line 38	\$6,982.91	<b>\$6,677.46</b>
Line 44	\$34.00	<b>\$0.00</b>
Line 46	\$420.64	<b>\$386.64</b>
Line 52	\$7,744.09	<b>\$7,404.64</b>
Line 56	\$7,744.09	<b>\$7,404.64</b>
Line 58	\$8,769.00	<b>\$8,429.55</b>
Line 59	\$811.23	<b>\$1,150.68</b>
Line 60	\$423.52	<b>\$458.84</b>
<b>Projected Disposable Income:</b>	\$387.71	<b>\$691.84</b>

C. Other Objections

1. The Debtor's Failure to File a Pre-Confirmation Certificate

The Trustee's objection that the Debtor's Plan cannot be confirmed absent the filing of a pre-confirmation certificate has now been resolved by Mr. Boben's filing of the certificate. *See* [doc. 18].

2. The Form of the Plan

Mr. Boben is representing himself in this bankruptcy case and has done a commendable job. His amended plan substantially complies with Local Bankruptcy Form M and will not be denied confirmation on the basis of form.

For the foregoing reasons, it is, by the United States Bankruptcy Court for the District of Maryland, hereby:

ORDERED that the Trustee's Supplemental Objection [17] to Confirmation of Debtor's Amended Chapter 13 Plan [14] is hereby overruled in part and sustained in part; and it is further

ORDERED that the Confirmation of Debtor's Chapter 13 Plan [14] is Denied but With Leave to Amend in a manner consistent with this Order.

cc: Paul Boben, Debtor  
Ellen W. Cosby, Trustee

**END OF ORDER**