

Issues for discussion in the October 11, 2006 hearings on the confirmations of the Chapter 13 Plans in the following cases: Piazza, 06-10491; Chauvin, 06-10554; Fretwell, 06-10566:

To what extent is the calculation of current monthly income, as provided by 11 U.S.C. §707(b), controlling in the calculation of disposable income under 11 U.S.C. 1325(b)? Specifically,

A. In the case of an above the means debtor, is the use of National and Local Standards issued by the Internal Revenue Service controlling in the calculation of disposable income for purposes of §1325(b)?

B. In the case of a below the means debtor, is the use of National and Local Standards issued by the Internal Revenue Service controlling in the calculation of disposable income for purposes of §1325(b)?

C. Assuming the actual expenses of a debtor in the six months preceding filing are less than those allowed under the National and Local Standards issued by the Internal Revenue Service, are actual expenses controlling for purposes of calculating §1325(b) disposable income for a below the means test debtor?

D. Assuming the actual expenses of a debtor in the six months preceding filing are less than those allowed under the National and Local Standards issued by the Internal Revenue Service, are actual expenses controlling for purposes of calculating §1325(b) disposable income for an above the means test debtor?

E. Are 401(K) loan repayments allowed as a reasonable expense in the calculation of disposable income under §1325(b)? Does the reasonableness of the expense depend on the income level of the debtor (above or below the means test)?

F. Is social security income excluded for purposes of calculating disposable income under §1325(b)? Does the inclusion, or exclusion, of social security income depend on the income level of the debtor (above or below the means test)?

G. Are voluntary 401(K) contributions allowed as a reasonable expense in the calculation of disposable income for purposes of §1325(b)? Does the reasonableness of the expense depend on the income level of the debtor (above or below the means test)?

H. What is the effect of §1325(a)(3) on the calculation of disposable income under §1325(b)? Can a debtor be in bad faith if the payments proposed equal or exceed current monthly income as provided by 11 U.S.C. §707(b)?

I. Can a debtor be in bad faith if the payments proposed are less than current monthly income as calculated by 11 U.S.C. §707(b) but claimants are paid 100% under the plan?

J. Can a debtor deduct additional expenses, not otherwise deemed reasonable, under §§707(b) or 1325(b) if the plan provides for full payment to all claimants?