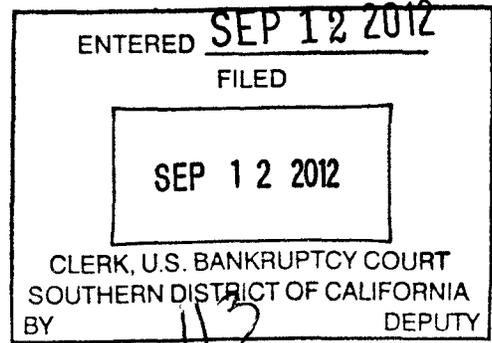


1 **WRITTEN DECISION - NOT FOR PUBLICATION**



9 UNITED STATES BANKRUPTCY COURT

10 SOUTHERN DISTRICT OF CALIFORNIA

11 In re ) Case No. 11-11223-PB13

12 JORDANA MARINKOVIC BAUMAN, ) ORDER ON OBJECTIONS TO

13 Debtor. ) CONFIRMATION

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15 This case was filed by debtor, acting in her own behalf,

16 on July 5, 2011, under Chapter 13. Debtor asked to pay the

17 filing fee in installments, which was granted. The first

18 meeting of creditors was set for August 12, 2011. Debtor had

19 filed a prior case under Chapter 7 within the preceding year,

20 which had been dismissed, thereby making relevant the provision

21 of 11 U.S.C. § 362(c)(3), under which the automatic stay that

22 arose upon filing would terminate within thirty days unless

23 extended by court order.

24 On July 19, debtor filed a motion to extend time to file

25 her Chapter 13 plan. She asserted she had been hospitalized for

26 appendicitis, and her computer had crashed and was being

1 repaired. She also stated:

2 Debtor also needs time to see the  
3 bankruptcy trustee at the 314 meeting in  
4 advance of submitting the "Plan" (as his  
5 office indicated she could do) to see what  
6 the debtor is allowed to represent in a  
Chapter 13 Plan in good faith when the Family  
Court Judge is the only person with the  
authority to release money to allow the  
debtor to pay any debt.

7 The Schedule I she filed said she had a net take home pay of  
8 \$450, plus \$1950 per month in support, subject to the Family  
9 Court. Her expenses, albeit spartan, exceeded her income by \$635  
10 per month.

11 The Chapter 13 Trustee filed a statement agreeing to some  
12 extension, but asking that the balance of outstanding documents  
13 be filed by August 5, one week before the meeting of creditors.

14 On August 1, 2011 debtor's brother, Mel Marion filed a  
15 motion asserting he was a creditor and Family Trustee, and  
16 wanted, as a putative party-in-interest for the stay to be  
17 extended until a further hearing after the plan was filed. The  
18 same day, debtor filed her own request for extension, while also  
19 joining in her brother's motion, as well.

20 Three days later, debtor filed a "Declaration", in which she  
21 asked that her brother be authorized to assist her and "answer  
22 Trustee questions about Plan details." On August 5, debtor filed  
23 a notice of intended action, proposing that the stay be extended  
24 to August 25. Attached was a lengthy statement of problems she  
25 had encountered with her lender, Wells Fargo; her health; her

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1 computer access problems; her efforts at a loan modification; and  
2 her difficulties with the Family Court.

3 On the same date, August 5, she filed her proposed plan,  
4 which provided she would pay the trustee "10% of gross income";  
5 provided for no installment payments to any creditor; and said  
6 the trustee was to pay "5 (10%)" on non-priority unsecured  
7 claims.

8 Following completion of the meeting of creditors, the  
9 trustee filing a veritable shopping list of objections to the  
10 proposed plan, and gave notice on a hearing to object to  
11 confirmation and on a motion to dismiss for two months hence,  
12 on October 19. On August 19, Wells Fargo filed its own  
13 objections, and noticed them for hearing the same date.

14 On September 6, debtor filed her Opposition to the trustee's  
15 objections and motion to dismiss, which reads like an opposition  
16 to an expected relief from stay motion by Wells Fargo, which has  
17 yet to be filed. The same date, her brother filed a request to  
18 be allowed to file a plan for her since, in his view, the Family  
19 Court "is leaving Debtor defenseless." He proposed that all  
20 payments by debtor be deferred until litigation produces funds  
21 debtor can use to make payments.

22 On September 18, debtor filed an emergency motion to extend  
23 the stay to the October 19 hearing on the trustee's objections  
24 and motion to dismiss. Debtor's proposed form of order with  
25 multiple provisions was denied, but an alternate order was  
26 entered on September 20 providing that the stay "is hereby

1 extended and in full force until formally dissolved by the  
2 court."

3       Then, on October 18, debtor filed an *ex parte* application to  
4 continue the October 19 contested confirmation hearings and  
5 motion to dismiss. She asked for 180 days to perform discovery,  
6 during which her marital dissolution proceedings might be  
7 concluded. She also said she had problems with the Pacer system,  
8 although she stated in writing in the Notice of Intended Action  
9 filed August 5 that the problem had been identified and was being  
10 addressed.

11       Following the hearing on the objections to confirmation, and  
12 the trustee's motion to dismiss, the Court took the matters under  
13 submission. No evidence was provided by the debtor that she has  
14 a "regular income" within the meaning of 11 U.S.C. § 109(e). Her  
15 schedules reflect a negative income and no wherewithal to make  
16 payments to real property secured creditors or to the Chapter 13  
17 trustee. The trustee gave her a list of items that needed to be  
18 accomplished in order to produce a confirmable plan. Instead, it  
19 appears she sought to buy time through invocation of the Chapter  
20 13 process, while she conducted litigation in the Family Court,  
21 and pursued possible loan modifications with her lenders without  
22 participating in the Chapter 13 process by making the requisite  
23 payments to either the trustee or to lenders.

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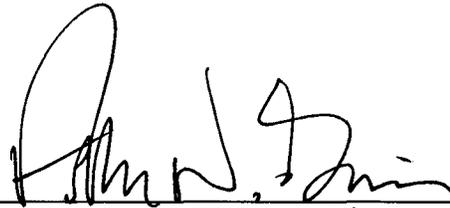
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1 More than enough time has elapsed for debtor to step forward  
2 and correct all the deficiencies in her proposed plan. Having  
3 failed to do so, the Court finds and concludes that confirmation  
4 of the proposed plan should be, and hereby is denied. Moreover,  
5 debtor has failed to show how amendments might salvage her plan,  
6 much less a present ability to do so. Accordingly, the Court  
7 finds and concludes that the Chapter 13 Trustee's motion to  
8 dismiss should be, and hereby is granted.

9 IT IS SO ORDERED.

10 DATED: SEP 12 2012

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14 PETER W. BOWIE, Chief Judge  
15 United States Bankruptcy Court  
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