



Comment on Proposed National Rules and Forms Amendments

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to:

Rules\_Comments

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1 Attachment



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Dear Sirs/Ladies:

I believe that the proposed change to Official Forms 22A and 22C “directing an above-median-income chapter 13 debtor to list any changes in the reporting of income and expenses that have already occurred or are virtually certain to occur during the 12 months following the filing of the petition” should NOT be made.

It remains unsettled law whether there is an applicable commitment period exists when the projected disposable income determined under 1325(b)(1) results in a zero or negative sum. Lanning did not necessarily overrule Kagenveama.

*Hamilton v. Lanning*, 560 U.S. \_\_\_ (2010), 130 S.Ct. 2464 (2010) (“*Lanning*”), does not state it overrules *Maney v. Kagenveama* (*In re Kagenveama*), 527 F.3d 990 (9<sup>th</sup> Cir. 2008), but rather, specifically states:

“Consistent with the text of § 1325 and pre-BAPCPA practice, we hold that when a bankruptcy court calculates a

debtor's projected disposable income, the court may account for changes in the debtor's income or expenses that are known or virtually certain at the time of confirmation."

*Lanning* at 2478. *Lanning* did not address the applicable commitment period issue, and therefore, on that issue *Kavengama* is still the valid law in the 9th Circuit.

Changing the Official Forms as proposed rewrites the Bankruptcy Code. That should be left to Congress.


Thank you.

Respectfully,  
Peter M. Lively

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