

Consumer Track:

Impact of Bankruptcy on the Respective Rights of Husbands and Wives and Significant Others

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**CONFLICT OF LAWS: DOMA,
STATE LAW AND THE
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by

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Bankruptcy courts are often forced to address the messy intersection of family law and the Bankruptcy Code. In the past, if the debtor were married state law provided defined rights and obligations founded in the marital relationship. The Bankruptcy Code supplemented those state-based rules, making special accommodations for certain rights and responsibilities founded in marriage. As early as 1995, Judge Kahn, in *In re Allen*,¹ acknowledged that a bankruptcy court's analysis would not alter if and when states chose to recognize marriages between individuals of the same-sex. While Judge Kahn refused to allow a same-sex couple to file a joint petition, he did opine "if a state recognizes a legal marriage between a same sex couple, they would qualify for relief under § 302 of the Bankruptcy Court. In other words, what is controlling is the fact that the parties are legally married. It is not limited to legally married husbands and wives."²

In 1996, Congress promulgated the Defense of Marriage Act (DOMA), changing the legal landscape Judge Kahn had described. DOMA prohibited federal courts from recognizing certain marriages and their attendant rights when applying federal law. DOMA also allowed states to refuse "to give effect to any public act, record, or judicial proceeding of any other State . . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State . . . or a right or claim arising from such relationship." States responded to Congress' grant of authority in DOMA. Over 40 states passed statutes or constitutional amendments (so-called mini-DOMAs) prohibiting marriages between same-sex

¹ 186 B.R. 769 (Bankr.N.D.Ga. 1995).

² Id. at 773.

couples and, in some instances, explicitly refusing to recognize marriages validly performed in other states as well as any rights arising from those marriages.

Both the federal and state DOMAs can affect everything in bankruptcy from the creation of the estate to the distribution priority scheme to the availability of exemptions to the discharge of certain debts. This article is intended to alert practitioners to the complexities wrought by the intersection of the Bankruptcy Code, DOMA and the various state laws involving relationship recognition and prohibition. Unfortunately, at this point there are more questions than answers.

I. State Law Relationship Recognition & Prohibition

Bankruptcy courts often rely on state law to determine the debtors' and creditors' rights and responsibilities. An individual's interest in property as well as his or her legal obligation to creditors is dictated primarily by state law. These rights and obligations can be acquired through marriage and then adjusted by divorce. States have taken different approaches to addressing legal unions between same-sex couples and the dissolution of those unions. Each approach brings with it an assorted array of rights and responsibilities as well as potential complications in the bankruptcy context.

A. Relationship Recognition

1. Marriage and Spousal Equivalent Rights

At this writing six states, Connecticut, Iowa, Massachusetts, New Hampshire, New York, Vermont, and the District of Columbia, recognize marriage between individuals of the same sex.³

³ CONN. GEN. STAT. §§ 46b-20-46b-38i (2010); IOWA CODE § 595.2 (defining marriage as between a man and a woman) overturned by *Varnum v. Brien*, 763 N.W.2d 862 (Iowa 2009); MASS. GEN. LAWS. ch. 207 § overruled by *Goodridge v. Dep't of Pub. Health* 798 N.E.2d 941 (Mass. 2003); N.H. REV. STAT. ANN. §§ 457:1-457:3 (2010); VT. STAT. ANN. Tit. 15 § 8 (2010); Council B. 18-0482, 18th Council Period (D.C. 2009); NEW YORK A-8529-2011 (amending domestic relations law to allow for marriage between persons of the same sex).

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In addition, there are 18,000 legally married same-sex couples in California.⁴ Washington did pass a marriage equality bill that was signed by Governor Gregoire in February 2012; however opponents of the bill collected the necessary signatures to take the measure to a state-wide voter referendum in November. As a result the bill will not go into effect unless approved by the voters on the November 6, 2012 ballot.⁵ Similarly, Maryland passed a marriage equality bill that is slated to go into effect in January 2013. But opponents of the bill are attempting to gather sufficient signatures to put the law up to a referendum vote that would appear on the ballot in the November 2012 election.⁶

In addition another nine states, California, Delaware, Hawaii, Illinois, Nevada, New Jersey, Oregon, and Rhode Island provide the equivalent of state-level spousal rights to same-sex couples.⁷ Plus, Washington's domestic partnership law remains in effect until the results of the referendum vote are known.⁸ Partners who enter into these relationships are generally entitled to the same legal obligations, responsibilities, protections, and benefits that state law provides to married spouses.

2. Recognition Only

⁴ *Strauss v. Horton*, 93 Cal.Rptr.3d 591, 207 P.3d 48 (2008)(upholding the validity of Proposition of 8 but also holding that marriages performed before vote remained valid marriages under state law).

⁵ On February 13, 2011, Governor Christine Gregoire signed Washington SB 6239 into law. The bill amends RCW 26.04.010 to allow same-sex couples to marry and converts all domestic partnerships into marriage if not dissolved within 2 years. Referendum 74 asks the voters to approve the legislators decision.

⁶ Civil Marriage Protection Act, HB 738, amends the current law to remove references to allow marriages between two people of the same sex. Maryland law requires the requisite number of signatures be presented to the Secretary of State by June 30, 2012.

⁷ CAL. FAM. CODE § 297.5 (West 2006); 13 DEL. CODE § 201, *et seq.*; Hawaii Act 001 (2011); 750 ILL. COMP. STAT. 75/20 (2011); NEV. REV. STAT. § 122A.200 (2010); N.J. STAT. ANN. § 37:1-31 (West 2010); OR. REV. STAT. § 106.340 (2010); R.I. GEN. LAWS §15-3.1.

⁸ RCW ch. 26.60 (West 2009).

Several states also provide some statewide spousal rights to same-sex couples. The title and scope of benefits and protections varies from state to state. In Colorado, same-sex partners can be identified as designated beneficiaries.⁹ Maine, Maryland and Wisconsin provide domestic partner registries but without all the rights and obligations afforded to spouses under state law.¹⁰ Maryland's law remains in effect until the marriage equality bill goes into effect January 2013, assuming of course it is not repealed by referendum.

3. Interstate Relationship Recognition

To further complicate matters, some states will recognize the marriages, civil unions or domestic partnerships properly performed or registered in another state but not all states will honor all forms of relationship recognition.¹¹ And certain states with no relationship recognition

⁹ COLO. REV. STAT. §§ 15-22-101-105 (2010).

¹⁰ ME. REV. STAT. tit. 22, § 2710 (2010); MARYLAND, Pub. L. 590, 599; WIS. STAT. §§ 770.1-10 (2010).

¹¹New York, Vermont, and the District of Columbia recognize out of jurisdiction marriages, civil unions or domestic partnerships between persons of the same-sex. *Martinez v. County of Monroe*, 850 N.Y.S.2d 740 (4th Dept. 2008); *Martinez Decision on Same-Sex Marriages*, Op. Governor Advisor David Nocenti 1 (2008) available at <http://www.abcnny.org/pdf/memo.pdf>; Recognition of Out-of-State Same Sex Marriages in Vermont, Op. Gen. Council. 1 (2007) available at <http://www.leg.state.vt.us/WorkGroups/FamilyCommission/Appendix%20J.pdf>; VT. STAT. ANN. Tit. 15 § 8 (2010); D.C. CODE § 46-405.01 (2010). In contrast, Connecticut and New Hampshire will recognize just out of state marriages and civil unions, Recognition Of Out-Of-State Civil Union and Same-Sex Marriages, Op. Att'y Gen. (2005) available at <http://www.ct.gov/ag/cwp/view.asp?A=1949&Q=303166>; N.H. REV. STAT. ANN. § 457:3 (2010), H.B. 437, 2007 Sess. (N.H. 2007) available at <http://www.gencourt.state.nh.us/legislation/2007/HB0437.html>, H.B. 73, 2009 Sess. (N.H. 2009) available at <http://www.gencourt.state.nh.us/legislation/2009/HB0073.html>, and Iowa, Maryland, and Massachusetts, will recognize out of jurisdiction marriages but will not recognize other forms of relationship recognition. *Varnum v. Brien*, 763 N.W.2d 862, 906-907 (Iowa 2009); Drew A. Cumings-Peterson, Out-of-State Civil Unions in Iowa After *Varnum v. Brien*: Why the State Should Recognize Civil Unions as Marriage, 96 IOWA L. REV. 297, 314 (2010)(noting state recognition of out of state relationship recognition still an open question); Whether Out-of-State Same-Sex Marriage That is Valid in the State of Celebration may be Recognized in Maryland, 95 Op. Att'y Gen. 4 (2010) available at <http://www.oag.state.md.us/Opinions/2010/95oag3.pdf>; *Goodridge v. Dep't of Pub. Health* 798 N.E.2d 941, 968-969 (Mass. 2003) (holding a failure to recognize same sex marriages violates the Massachusetts constitution). According to the Massachusetts Secretary of State Massachusetts will recognize out of state marriages and civil unions but not domestic partnerships although such partnerships are recognized in certain municipalities. While California, New Jersey, and Oregon will recognize out of jurisdiction marriages, civil unions, or domestic partnerships as valid civil unions or domestic partnerships only. CAL. FAMILY CODE §§ 299.2, 308 (West 2010); Recognition in New Jersey of Same-Sex Marriages, Civil Unions, Domestic Partnerships and Other Government-Sanctioned, Same-Sex Relationships Established Pursuant to the Law of Other States and Foreign Nations, 3-2007 Op. Att'y Gen 1 (2007) available at <http://www.nj.gov/oag/newsreleases07/ag-formal-opinion-2.16.07.pdf>; OR. REV. STAT. §§ 106.310, 106.340 (2010). Domestic partnerships are recognized in Oregon but the constitution states that "[i]t is the policy of Oregon, and its political subdivisions, that only a marriage between one man and one

or prohibition statutes will recognize marriages performed in other states. For example, in January 2011, the New Mexico Attorney General issued an opinion letter stating that out-of-state marriages would likely be recognized in New Mexico.¹²

4. Relationship Prohibition

Forty states have either constitutional amendments or statutes restricting marriage to one man and one woman.¹³ These prohibitions, the so-called “mini-DOMAs,” prohibit the marriage of same-sex couples in the state. Some statutes also explicitly restrict the state’s ability to recognize marriages between couples validly performed in other states.¹⁴ For example, Maine

woman shall be valid or legally recognized as a marriage.” Or. Const. art. XV § 5(a). The question of cross border recognition is in flux. In both October 2004 and February 2007, the former Rhode Island Attorney General, Patrick Lynch, issued legal opinions recommending that governmental entities recognize the same-sex spouses of employees and retirees. In the latter opinion, the Attorney General said that, under established legal principles and a review of Rhode Island public policy, a marriage validly entered into by a same-sex couple in another jurisdiction remains valid in Rhode Island. Legal uncertainty remains in this area, however. *See Chambers v. Ormiston*, 935 A.2d 956 (R.I. 2007).

¹² 11–01 Op. Att’y Gen. 1 (2011) *available at* <http://www.democracyfornewmexico.com/files/4-jan-11-rep.-al-park-opinion-11-01.pdf>

¹³ States with constitutional amendments include: Alabama (2006), Alaska (1998), Arizona (2008), Arkansas (2004), California (2008), Colorado, Florida (2008), Georgia (2004), Kansas (2005), Idaho (2006), Kentucky (2004), Louisiana (2004), Michigan (2004), Mississippi (2004), Missouri (2004), Montana (2004), Nebraska (2000), Nevada (2002), North Carolina (2012), North Dakota (2004), Ohio (2004), Oklahoma (2004), Oregon (2004), South Carolina (2006), South Dakota (2006), Tennessee (2006), Texas (2005), Utah (2004), Virginia (2006) and Wisconsin (2006). States with statutes include Delaware, Hawaii, Illinois, Indiana, Maine, Maryland, Minnesota, North Carolina, Pennsylvania, West Virginia and Wyoming. A map is *available at* http://www.hrc.org/files/assets/resources/marriage_prohibitions_2009%281%29.pdf.

¹⁴ See La. Const. art. XII, § 15 (“No official or court of the state of Louisiana shall recognize any marriage contracted in any other jurisdiction which is not the union of one man and one woman.”); Fla. Stat. Ann. § 741.212(1) (West 2006) (“Marriages between persons of the same sex entered into in any jurisdiction, whether within, or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign ... are not recognized for any purpose in this state.”); Ky. Rev. Stat. Ann. § 402.045(2) (LexisNexis 2006) (“Any rights granted by virtue of [a same-sex] marriage, or its termination, shall be unenforceable in Kentucky courts.”); Ohio Rev. Code Ann. § 3101.01(C)(2) (West 2006) (“Any marriage entered into by persons of the same sex in any other jurisdiction shall be considered and treated in all respects as having no legal force or effect in this state and shall not be recognized by this state.”).

law prohibits marriage between persons of the same-sex and also declares void any marriage performed in another state that violates its law.¹⁵

Yet others go even further by refusing to recognize contractual rights arising from those marriages.¹⁶ For example, Minnesota law prohibits a marriage between partners of the same-sex, declares void a union valid under another state's laws and prevents recognition of even *contractual rights* that arise as a result of the marriage.

A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.¹⁷

A third category of statutes refuse to enforce *judgments* that involved a marriage between persons of the same-sex.¹⁸ For example, a Florida statute states:

¹⁵ ME. REV. STAT. ANN. tit. 19 § 701(1A) (“Any marriage performed in another state that would violate any provisions of subsections 2 to 5 if performed in this State is not recognized in this State and is considered void if the parties take up residence in this State.”) & (5) (“Persons of the same sex may not contract marriage.”)

¹⁶ Alaska Stat. § 25.05.013 (2004); (“A marriage entered into by persons of the same sex, either under common law or under statute, that is recognized by another state or foreign jurisdiction is void in this state, and contractual rights granted by virtue of the marriage, including its termination, are unenforceable in this state.”) Minn. Stat. Ann. § 517.03 (West 2006) (“A marriage entered into by persons of the same sex, either under common law or statute, that is recognized by another state or foreign jurisdiction is void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this state.”); Va. Code. Ann. § 20-45.2 (West 2005) (“A marriage between persons of the same sex is prohibited. Any marriage entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created by such marriage shall be void and unenforceable.”). Arkansas has a modified version of the language that is a bit clearer, referring to “contractual or other rights” granted by virtue of the marriage license, but it remains obscure what the reference to contract is intended to accomplish. Ark. Code Ann. § 9-11-208(c) (2006) (“Any marriage entered into by persons of the same sex, where a marriage license is issued by another state or by a foreign jurisdiction, shall be void in Arkansas and any contractual or other rights granted by virtue of that license, including its termination, shall be unenforceable in the Arkansas courts.”). But see Ark. Code Ann. § 9-11-208(d) (2006) (“[N]othing in this section shall prevent an employer from extending benefits to persons who are domestic partners of employees.”).

¹⁷ MN STAT. ch. 517.03(a)(4) & (b) (2011).

¹⁸ Ga. Const. art. 1, § 4, cl. 1(b); Fla. Stat. Ann. § 741.212(2) (West 2006); Ohio. Rev. Code Ann. § 3101.01(C)(4) (West 2006); Tex. Fam. Code Ann. § 6.204(c)(1) (Vernon 2006); W. Va. Code Ann. § 48-2-603 (LexisNexis 2006).

The state, its agencies, and its political subdivisions may not give effect to any public act, record, or *judicial proceeding* of any state, territory, possession, or tribe of the United States or of any jurisdiction, either domestic or foreign, or any other place or location respecting either a marriage or relationship not recognized under subsection (1) or a claim arising from such a marriage or relationship.¹⁹

While states are not required to accept marriages validly performed elsewhere, whether states are free to reject *judgments* from sister states remains a hotly debated topic.²⁰ Moreover, the exact scope of these mini-DOMAs is uncertain. The statutes are often vague and ambiguous, leaving it to the state courts to establish their parameters.²¹

The effect of these laws on the property interests of same-sex couples is very real. In *Hennefeld v. Township of Montclair*, the plaintiffs, a validly married same-sex couple, sought a 100% disabled veteran's property tax exemption with respect to their residential property.²² The court conceded that the couple was married under Canadian law and that they had a valid civil union under Vermont law. Citing to the federal DOMA and New Jersey law, however, the court refused to recognize that the couple owned the property as tenants by the entirety.²³ *Hennefeld* provides a potent example of how a state's prohibition on relationship recognition can undermine a debtor's property interests critical to the bankruptcy process.

B. Relationship Dissolution

¹⁹ FLA. STAT. § 741.212(2) (West 2008).

²⁰ See *Wilson v. Ake*, 354 F.Supp.2d 1298, 1303 (M.D.Fla. 2005)(refusing to recognize a marriage performed in Massachusetts); *Cook v. Cook*, 209 209 Arz. 487 (Ct. of App. 2005); see generally Mark Strasser, *State Marriage Amendments and Overreaching: On Plain Meaning, Good Public Policy, and Constitutional Limitations*, 25 LAW & INEQ. 59 (2007).

²¹ See Andrew Koppelman, *The Difference the Mini-DOMAs Make*, 16 LOYOLA U. CHI. L.J. 265 (Winter 2007)(discussing the variations and overly broad language in state laws).

²² 22 N.J. Tax 166 (N.J. 2005).

²³ *Id.* at 185-190.

In states that allow marriage, civil unions or domestic partnerships it is likely that such states will grant a divorce or dissolution of such union. It is important, however, to be aware of the state's specific requirements for granting divorces. For example, most states have a residency requirement that a party must meet before filing for a divorce. It may be difficult for couples who travelled to another state to get married but reside elsewhere to obtain a divorce from the state that granted the marriage license. Moreover, even if the state has jurisdiction to grant the divorce, it may not have jurisdiction to divide the marital property.²⁴

In states that prohibit marriage between same-sex individuals, a court is less likely to have the jurisdiction it needs to allow a divorce action to go forward. For example, a Texas court concluded that it lacked jurisdiction to entertain a divorce action because Texas law prohibits the state from recognizing a marriage between persons of the same-sex for any purpose.²⁵ The states refusal to provide relationship recognition to same-sex couples is not always predictive of court action, however. Wyoming specifically defines marriage as a contract between a man and a woman, yet the Wyoming Supreme Court held that the state district court had subject-matter jurisdiction to hear a divorce action to dissolve a same-sex marriage lawfully performed in Canada.²⁶

²⁴ See generally, Courtney G. Joslin, *Moderinizing Divorce Jurisdiction: Same-Sex Couples and Minimum Contacts*, 91 B.U. L. REV. 169 (Oct. 2011).

²⁵ See *In re Marriage of J.B. and H.B.*, 326 S.W.3d 654, 659 (Tex.App. 2010). See also *Kern v. Taney*, No. 09-10739, 2010 WL 2510988 (Mar. 15, 2010, Pa.Com.Pl.); *Jenkins v. Jenkins*, 637 S.E.2d 330 (Va. Ct. App. 2006); *Chism v. Ranzy*, No. 49D12-0903-DR-014654 (Ind. Super. Ct. Sept. 4, 2009), <http://www.scribd.com/doc/20720679/Order-on-Petition-for-Dissolution-of-Marriage-in-Re-Marriage-of-Tara-Ranzy-and-Larissa-Chism>; *O'Darling v. O'Darling*, 188 P.3d 137, 137 (Okla. 2008); *Chambers v. Ormiston*, 935 A.2d 956, 956 (R.I. 2007). A Texas bankruptcy court did not recognize a domestic partner relationship between two men for purposes of the fraudulent transfer action, however. See *In re LJM2 Co-Investment, L.P.*, 327 B.R. 786 (Bankr. N.D. Tex. 2005).

²⁶ *Christiansen v. Christiansen*, 253 P.3d 153, 157 (Wyo. 2011).

The inability to divorce has a significant effect on property interests. Consider the example of the lottery winners who had to share their winnings with the spouses from whom they were estranged but still legally married.²⁷ In the context of same-sex unions, the situation can be even more complex with the relationship and attendant rights existing in one forum but not another. A Virginia state court refused to dissolve a civil union between two women because state law prohibited recognition of the relationship.²⁸ Teresa Austin, the plaintiff, testified that dissolution was necessary to prevent her spouse from making “claims on me or my property as a spouse or partner in a civil union.” The court acknowledged the dilemma and resolved it by creating a limiting order: “Within the boundaries of Virginia, the purported civil union between Teresa Joyce Austin and Rebekah Theodora Austin is void. No rights created by the purported civil union are enforceable by this or any court of this Commonwealth.”²⁹ Oddly, if one or both of the women crossed the border into the District of Columbia the relationship, and presumably the rights arising under it, would be valid.

Even if the couple is validly divorced, however, a former spouse may not be able to enforce a valid domestic support in another state. As noted earlier, some states’ mini-DOMAs may include a provision that allows it to refuse to enforce judgments issued from another state.³⁰ Such provisions leave open the possibility that a former spouse could avoid a valid judgment

²⁷ See, e.g. *In re Fordu*, 209 B.R. 854, 860 (6th Cir. BAP 1997); *Felix v. Felix*, No. 265/1995, 1998 WL 458499, at *3-4 (July 21, 1998, Terr.V.I.); *In re Marriage of Morris*, 266 Ill.App.3d 277, 281 (1994).

²⁸ *Austin v. Austin*, No. CL07-607, 2008 WL 8641297, at *3 (May 27, 2008, Va.Cir.Ct.)

²⁹ *Id.* at *3 .

³⁰ See Ga. Const. art. 1, § 4, cl. 1(b); Fla. Stat. Ann. § 741.212(2) (West 2006); Ohio. Rev. Code Ann. § 3101.01(C)(4) (West 2006); Tex. Fam. Code Ann. § 6.204(c)(1) (Vernon 2006); W. Va. Code Ann. § 48-2-603 (LexisNexis 2006).

entered against it by moving to a state that prohibits recognition of such judgments. Parents have already attempted to use these state laws to avoid child custody orders.³¹

Whether bankruptcy courts will follow these state law provisions remains an open question. As will be discussed more fully below, a bankruptcy courts choice of law analysis will often dictate the answer. If a court follows the forum state's law, it may refuse to recognize the divorce and any attendant rights arising from it or its dissolution.

II. The Intersection of State Laws, the Defense of Marriage Act and the Bankruptcy Code

Bankruptcy for same-sex couples is complicated by both the federal and state DOMAs. The federal DOMA contains two relevant provisions – the federal definitions provision and the so-called choice of law provision. Each provision influences how a bankruptcy case may evolve for married gay and lesbian debtors.

A. Federal Definitions Provisions

1. DOMA and the Bankruptcy Code

The federal definitions provision states: “In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.”³² The federal definitions provision guarantees that any marital benefits provided by federal law will not extend to same-sex couples. Where previously the

³¹ See, e.g., *Miller-Jenkins v. Miller-Jenkins*, 661 S.E.2d 822 (Va. 2008); *Prashad v. Copeland*, 685 S.E.2d 199 (Va. 2009); *Ex parte N.B. (In re A.K. v. N.B.)* 66 So.3d 249 (Ala. 2010).

³² 1 U.S.C. § 7 (2010).

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federal government had looked to state law to define “marriage” after DOMA, “marriage” -- at least as it related to the biological sex of the individuals -- was defined by federal law.

The application of the federal definitions provision has a significant effect on the rights of creditors, debtors and their same-sex partners. It has the potential to influence every aspect of the bankruptcy from the composition of the estate to the calculation of the means test to exemptions under state and federal law to the ability to discharge particular debts.³³

The Code is replete with the words “spouse” and “marriage.” In § 302, Congress provided an opportunity for an individual debtor and his or her spouse to file a single petition for bankruptcy.³⁴ The Code provides special protections to a “domestic support obligation” defined as a debt owed to a “spouse” or “former spouse.”³⁵ The Code also affords special status to debts owed to “a spouse or former spouse” that are not deemed a “domestic support obligation” but that were “incurred by the debtor in the course of divorce or separation or in connection with a separation agreement, divorce decree, or other order of court record.”³⁶ The Code provides domestic support obligations special protections in a number of ways.

- The automatic stay does not apply to the establishment or modification of an order for domestic support obligations³⁷ or the dissolution of a marriage.³⁸
- The automatic stay doesn’t prohibit the collection of a domestic support obligation from property that is not property of the estate³⁹ or the withholding of income that is property of the estate or property of the debtor for payment of domestic support obligations.⁴⁰

³³ See, e.g., 11 U.S.C. § 101(14)(A)(domestic support obligation); § 302 (joint filing); § 362(b)(2)(A)(ii) & (iv) (automatic stay); § 507(a)(1)(A) & (B) (priority distribution for DSO); § 541(a)(2)(property of the estate); §§ 523(a)(5) & 1328(c)(2) (discharge of DSO).

³⁴ 11 U.S.C. § 302.

³⁵ 11 U.S.C. § 101(14A).

³⁶ 11 U.S.C. § 523(a)(15).

³⁷ § 362(b)(2)(A)(ii).

³⁸ 11 U.S.C. § 362(b)(2)(iv).

³⁹ § 362(b)(2)(B).

- A trustee is prohibited from avoiding a judicial lien that secures a domestic support obligation⁴¹ and is likewise prohibited from avoiding any interest of the debtor in property to the extent such transfer was a legitimate payment for a domestic support obligation.⁴²
- As part of the distribution scheme, domestic support obligations are given first priority.⁴³
- A debtor is prohibited from discharging a domestic support obligation in Chapters 7, 11, 12, 13 bankruptcies owed to a spouse or former spouse.⁴⁴
- A debtor's Chapter 13 plan must pay domestic support obligations in full except in narrow circumstances.⁴⁵
- A court cannot confirm a Chapter 11 or Chapter 13 plan unless the debtor has paid all post-petition court ordered or statutorily required domestic support obligations.⁴⁶
- A Chapter 13 debtor cannot obtain a discharge until he or she has certified that all court ordered or statutorily required domestic support obligations that were due on or before the date of certification are paid.⁴⁷
- Except in a fully completed Chapter 13 cases, a debtor cannot discharge a debt to a spouse or former spouse that is not a domestic support obligation but is incurred in the course of a divorce or separation.⁴⁸

In addition to the protections afforded the creditor-spouse, domestic support obligations appear in other Code provisions.

- Under the means test calculation, the debtor may deduct “payment for all priority claims,” which, as noted, includes domestic support obligations.⁴⁹
- In calculating “disposable income” under Chapter 11 and Chapter 13, the debtor can deduct from his or her current monthly income “domestic support obligations that first become payable after the date the petition is filed.”⁵⁰

⁴⁰ § 362(b)(2)(C).

⁴¹ § 522(f)(1)(A).

⁴² § 547(c)(7).

⁴³ 11 U.S.C. § 507(a)(1)(A) & (B).

⁴⁴ § 523(a)(5) & 1328(c)(2).

⁴⁵ 1322(a)(2).

⁴⁶ § 1325(a)(8); § 1129(a)(15).

⁴⁷ 11 U.S.C. § 1328(a).

⁴⁸ §§ 523(a); 523(a)(15); & 1328(c)(2). In Chapter 13, post-marital obligations that are not domestic support obligations can be discharged.

⁴⁹ § 707(b)(2)(A)(iv).

⁵⁰ § 1325(b)(2); § 1129(a)(15)

- A debtor may avoid the dismissal of a Chapter 7 petition if he or she can “establish by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.”⁵¹

While there aren't many reported cases addressing these issues, *In re Goodale*⁵² provides an example of the application of DOMA in this context. There the court allowed a debtor to avoid a lien under § 522(f)(1), rejecting the debtor's former partner's argument that the lien was to secure a debt for maintenance and support. The former partner had been awarded a specified amount by a state court as part of the dissolution of the couple's domestic partnership. In the state court's order it explicitly stated “the court hereby clarifies for any bankruptcy court, that the above award is also necessary for Respondent's [Foshay's] support and care.”⁵³ Citing DOMA, the court reasoned that the lien could be avoided because the former partner was the same sex as the debtor and thus was not a “spouse” under federal law.

Outside the DOMA context former partners have been denied the protections afforded domestic support obligations in the absence of a legally recognized marriage. For example, in *In re Bakkar*, a debtor's former spouse attempted to obtain an order from the bankruptcy court declaring that a \$125,000 judgment in a divorce action was a non-dischargeable domestic support obligation.⁵⁴ Although the couple had been married in a local mosque, the court declined to issue the order because the former spouse failed to establish that she was legally married under New Jersey law.⁵⁵

⁵¹ § 707(b)(7)(B)(3).

⁵² 298 B.R. 886 (Bankr. W.D. Wash. 2003).

⁵³ *Id.* at 893.

⁵⁴ No. 08–22105 (DHS), 2009 WL 3068192 at *1 (Sept. 22, 2009, Bankr.D.N.J.).

⁵⁵ *Id.* at *4.

DOMA also wreaks havoc with the inclusion of “community property” in the debtor’s estate. In § 541(a)(2) the Code provides that property of the estate will include “all interests of the debtor and the debtor’s spouse in community property as of the commencement of the case” with some limited exceptions.⁵⁶ What constitutes “community property” is defined by state law. Ten states and Puerto Rico have adopted a “community property” scheme.⁵⁷ Four of these states, California, New Mexico, Washington, and Wisconsin, either have some form of relationship recognition or are willing to recognize relationships validly performed in another state.

However, Congress’ insertion of “spouse” in § 541(a)(2) combined with DOMA’s mandate to interpret the word to encompass only opposite sex couples complicates the matter in bankruptcy. Section 541(a)(2) mandates that all the interests of the debtor and the debtor’s spouse in community property become property of the estate. If a court were to apply DOMA literally, the nondebtor, same-sex partner’s interest in community property could not be included in the estate. Under this reading, the trustee would be unable to administer both partners’ interest in the property. Courts are between a rock -- DOMA’s interpretive mandate -- and a hard place -- *Butner*’s command to look to state law to define property rights.

⁵⁶ § 541(a)(2) provides that “community property” enters the estate to the extent that it is “under the sole, equal, or joint management of the debtor” or it is “liable for an allowable claim against the debtor or for both an allowable claim against the debtor’s spouse.”

⁵⁷ The states identified as community property states include Arizona (Ariz.Rev.Stat. Ann. §§ 25-214(B), 25-214(C)), California (Cal.Fam.Code § 1102), Idaho (Idaho Code § 32-912), Louisiana (La. Civ. Code Ann. Arts. 2230, 2345, 2348, 2350-52), Nevada (Nev.Rev.Stat. §§ 123.170, 123.230(1)-(6)); New Mexico (N.M.Stat. Ann. §§ 40-3-13, 40-3-14; N.M.Stat. Ann. § 40-3-12A), Puerto Rico, (31 L.P.R.A. §§ 40-3-13, 40-3-14) Texas (Tex.Fam.Code § 3.102), Washington (Wash.Rev.Code §§ 26.16.010-26.16.030); and Wisconsin (Wis.Stat. § 766.51(1)(am)-(b)).

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Creditors with claims against “community property” are categorized separately from other creditors for purposes of distribution and discharge. In § 101(7), the Code has specifically defined these creditors as having “community claims.” Community claims are defined as “claims that arose before the commencement of the case . . . for which property of the kind specified in § 541(a)(2)” is liable. While the definition of community claims does not implicate DOMA directly, it is affected by the inclusion of the word spouse in § 541(a)(2). As a general matter, under state law a creditor can access community property to pay for the debts of either spouse.⁵⁸ In bankruptcy, because all the debtor’s and the non-debtor spouse’s interests in community property are included in the estate, a creditor with a “community claim” must file a proof of claim in the bankruptcy even if the creditor’s quarrel is with the non-debtor spouse. But it isn’t clear if a bankruptcy court can allow a creditor’s claim against a non-debtor same-sex spouse. Section 541(a)(2) states that the property enters the estate, in part, if it is liable for “both an allowable claim against the debtor and an allowable claim against the debtor’s spouse.” If DOMA prohibits the bankruptcy court from recognizing the same-sex partner as a spouse, can there be an allowed claim against that individual?

How bankruptcy courts resolve the “property of the estate” question raised above will have significant consequences for creditors with community claims. If the court reads the statute as only allowing the debtor’s interest in community property to enter the estate, it will need to create a means for creditors of the non-debtor spouse or domestic partner to share in the distribution of community property. If the court reads the phrase “and the debtor’s spouse” out of the statute – then the “community property” becomes part of the estate and is available to creditors with community claims. If the court decides instead that the debtor’s interest in the

⁵⁸ See, e.g., Cal.Fam.Code §§ 910(a) and 913(a).

property comes into the estate through § 541(a), then there is no “community property” to satisfy “community claims.” Creditors with community claims would still need to file a proof of claim in the debtor’s bankruptcy but, as will be discussed below, their recovery will be severely restricted by the absence of community property in the estate.⁵⁹

Assuming the property enters the estate as “community property,” § 726(c) provides for a “sub-estate” comprised of community property only and sets forth a priority distribution scheme.⁶⁰ DOMA is implicated in two subsections that specifically use the term “spouse.” First, § 726(c)(2)(A) states that community claims against the debtor and the non-debtor spouse shall be paid from community property, and to the extent community property is insufficient to cover the debts, subsection (D) allows community claims against the debtor and the non-debtor spouse to be paid from other property of the estate. Creditors with community claims against a non-debtor spouse of the same sex, assuming they are even allowed, could not be satisfied through

⁵⁹ § 726(c)(2)(D).

⁶⁰ Section 726 provides: (c) Notwithstanding subsections (a) and (b) of this section, if there is property of the kind specified in section 541(a)(2) of this title, or proceeds of such property, in the estate, such property or proceeds shall be segregated from other property of the estate, and such property or proceeds and other property of the estate shall be distributed as follows:

- (1) Claims allowed under section 503 of this title shall be paid either from property of the kind specified in section 541(a)(2) of this title, or from other property of the estate, as the interest of justice requires,
- (2) Allowed claims, other than claims allowed under section 503 of this title, shall be paid in the order specified in subsection (a) of this section, and, with respect to claims of a kind specified in a particular paragraph of section 507 of this title or subsection (a) of this section, in the following order and manner:
 - (A) First, community claims against the debtor or the debtor's spouse shall be paid from property of the kind specified in section 541(a)(2) of this title, except to the extent that such property is solely liable for debts of the debtor.
 - (B) Second, to the extent that community claims against the debtor are not paid under subparagraph (A) of this paragraph, such community claims shall be paid from property of the kind specified in section 541(a)(2) of this title that is solely liable for debts of the debtor.
 - (C) Third, to the extent that all claims against the debtor including community claims against the debtor are not paid under subparagraph (A) or (B) of this paragraph such claims shall be paid from property of the estate other than property of the kind specified in section 541(a)(2) of this title.
 - (D) Fourth, to the extent that community claims against the debtor or the debtor's spouse are not paid under subparagraph (A), (B), or (C) of this paragraph, such claims shall be paid from all remaining property of the estate.

the bankruptcy process because DOMA would prohibit the court from recognizing the relationship as a marriage.

Whether the court provides for “community property” to enter the estate through § 541(a)(2) door or through the § 541(a)(1) door, creditors holding community claims against the nondebtor spouse may be without recourse. As noted above, the § 726(c) priority distribution scheme for community claims employs the phrase “community claims against . . . the debtor’s spouse.” Pursuant to DOMA, a same-sex spouse or domestic partner is not recognized. Thus, a creditor’s claim against that spouse would not be recognized either. As noted below, this further complicates the discharge picture.

Community claim creditors may fare better under Chapter 11 and Chapter 13 plans. When creating their plans, Chapter 11 or 13 debtors are not subject to the segregation or distribution schemes contained in § 726(c). Chapter 11 and Chapter 13 plans, however, are not entirely immune from the complexities inherent in the Chapter 7 distribution scheme. To confirm a plan, a court must determine that the plan provides that an allowed unsecured claimant receive not less than it would receive if the debtor were in a Chapter 7 – the “best interest of the creditors” test.⁶¹ Because community claimants, especially those whose claims against the non-debtor spouse, are in a particularly vulnerable position in Chapter 7, it would be possible for a debtor’s Chapter 11 or Chapter 13 plan to provide that community claims receive nothing.⁶²

Generally, the debtor and the non-debtor spouse’s interest in community property acquired after the commencement of bankruptcy is protected from creditors with community claims. Under § 524(a)(3), a debtor’s discharge “operates as an injunction against the commencement or

⁶¹ § 1129(a)(7); § 1325(a)(4).

⁶² *In re Whitus*, 240 B.R. 705, 710 (W.D.Tx 1999).

continuation of an action, the employment of process, or an act, to collect or recover from, or offset against, [community property] that is acquired after the commencement of the case, on account of any allowable community claim.” While the Code itself does not explicitly state that the injunction extends to protect community property from the non-debtor spouse’s debts, bankruptcy courts have so held. In *In re Kimmel*,⁶³ the Ninth Circuit Bankruptcy Appellate Panel held that “§ 524(a)(3) can operate to provide non-debtor spouses with a de facto partial discharge of their separate debts by enjoining a creditor from attaching community property in which the non-debtor spouse has an interest.”

When read in isolation, § 524(a) appears to allow bankruptcy courts to extend the de facto discharge to the non-debtor spouse regardless of sex. Because § 524(a)(3) does not use the term “spouse” or “marriage” (before the exception clause) DOMA’s mandate is absent. When read in conjunction with other provisions involving “community claims” and “community property,” however, the potential discharge is troubling. In the context of a marriage, civil union, or domestic partnership between two people of the same-sex, the non-debtor spouse’s interest in community property does not become “property of the estate” unless the court opts to ignore the phrase “and the debtor’s spouse” in § 541(a)(2). Even then the community property cannot be used to pay for community claims against the non-debtor spouse in a Chapter 7. If a de facto discharge is granted community claim creditors will receive far less than they would if the debtor and non-debtor spouse were of the opposite sex. At the same time a bankruptcy court’s decision to not extend the discharge would make the debtor’s after acquired community property subject to a creditor’s pre-petition community claims.

⁶³ 378 B.R. 630 (9th Cir. BAP, Nov. 8, 2007).

The description above is not exhaustive. There are a number of other Code provisions affected by the federal definitions provision.⁶⁴ But as will be explained more fully below, the federal definitions provision is under attack and the United States Trustee is no longer raising it in bankruptcy.

2. DOMA Challenges

Until recently, plaintiffs had repeatedly but unsuccessfully challenged the constitutionality of DOMA. Armed with recent Supreme Court cases⁶⁵ and a growing number of legally married same-sex couples denied the over 1000 federal benefits associated with marriage, plaintiffs' have renewed their efforts to declare 1 U.S.C. § 7 – the federal definitions section – unconstitutional. The plaintiffs' cases were further bolstered by the Attorney General Holder's announcement that the Department of Justice would no longer defend DOMA.⁶⁶ In most cases, the House Bi-partisan Legal Advisory Group (BLAG) intervened to defend the law.⁶⁷

Since Attorney General Holder's announcement in February 2011, three bankruptcy courts have denied the US Trustees' motions to dismiss joint petitions filed by legally married same-sex couples.⁶⁸ In *In re Somers*, the couple filed a joint petition on October 29, 2010 and, on

⁶⁴ See, e.g., 11 U.S.C. §§ 101(10A); 363(i); 707(b)(2)(A)(ii)(I) & 707(b)(7).

⁶⁵ See *Lawrence v. Texas*, 539 U.S. 558 (2003); *Romer v. Evans*, 517 U.S. 620 (1996).

⁶⁶ Letter from Attorney General to Congress on Litigation Involving Defense of Marriage Act (Feb. 23, 2011).

⁶⁷ See, e.g., *Gill v. OPM*, 699 F.Supp2d 374 (D.Mass. 2010) *aff'd* 2012 WL 1948017 (1st Cir. May 31, 2012); *Mass. v. HHS*, 698 F.Supp2d 234 (D.Mass. 2010) *aff'd* 2012 WL 1948017 (1st Cir. May 31, 2012); *Dragovich, et al. v. Dept. of the Treasury*, No. C 10-01564 CW, 2012 WL 1909603 (N.D.Cal., May 24, 2012); *Golinski v. OPM*, 824 F.Supp.2d 968 (N.D. Cal. 2012); *Pederson v. OPM*, Civil Action No. 3:10 CV 1750 (VLB) (D. Conn.); *Windsor v. OPM*, No.1:10-cv-08435-BSJ-JCF (S.D.N.Y.); *Cooper-Harris v. Veteran's Administration*, No.2:12-cv-00887-CBM-AJW (C.D. Cal.); *Cardona v. Veterans Administration* No. 11-3083 (Ct. App. for Veterans' Claims); *McLaughlin v. Panetta*, Case 1:11-cv-11905 (D.Mass. Oct. 21, 2011).

⁶⁸ See *In re Balas*, 449 B.R. 567 (C.D. CA 2011); *In re Somers*, 448 B.R. 677 (Bankr. S.D.N.Y. 2011); *In re Ziviello-Howell*, Ch. 7 Case No. 11-22706-A-7 *Civil Minutes*, Docket No. 44 (Bankr. E.D Cal. May 31, 2011)(McManus, J).

February 11, 2011, sought to sever the case after the US Trustee indicated that it would seek to dismiss the case pursuant to DOMA.⁶⁹ But on February 24, the debtors withdrew their motion to sever “because President Obama has ordered the Justice Department to stop defending the Defense of Marriage Act.”⁷⁰ The US Trustee filed a motion to dismiss under § 707(a) arguing that DOMA required dismissal. The court concluded that the “mere existence of DOMA is not sufficient to remove the duty imposed on this Court by section 707(a) to find ‘cause’ prior to dismissing the case.”⁷¹ After reviewing the case, the court determined that there was not a statutory basis for dismissal nor was dismissal in the best interest of the creditors or the debtors.

Similarly, in *In re Ziviello-Howell*, the court denied the Trustee’s motion to dismiss stating that “this court is not convinced that dismissal is in the best interests of all the parties or that § 707(a) requires dismissal even if DOMA is applicable and constitutional.”⁷²

Citing *Somers* and *Ziviello-Howell*, the court in *In re Balas* concluded that DOMA did not provide a valid basis for dismissing a chapter 13 case. According to the court, “cause does not exist under § 1307(c). No creditor has sought dismissal. The trustee has cited no failure by the Debtors in performing their obligations under § 1307(c). The trustee seeks dismissal solely because the Debtors are a same-sex married couple, in violation of DOMA’s definition of “spouse” as the statute applies to Bankruptcy Code § 302(a).”⁷³ But the *Balas* court did not stop there. The court conducted a careful analysis and concluded that DOMA, as applied to the

⁶⁹ *In re Somers*, 448 B.R. at 679.

⁷⁰ *Id.* at 679-80.

⁷¹ *Id.* at 682.

⁷² *Ziviello-Howell*, Ch. 7 Case No. 11-22706-A-7 *Civil Minutes*, Docket No. 44 (Bankr. E.D Cal. May 31, 2011)(McManus, J).

⁷³ *See In re Balas*, 449 B.R. at 572.

debtors, “violates their equal protection rights afforded under the Fifth Amendment of the United States Constitution, either under heightened scrutiny or under rational basis review. Debtors also have demonstrated that there is no valid governmental basis for DOMA. In the end, the court finds that DOMA violates the equal protection rights of the Debtors as recognized under the due process clause of the Fifth Amendment.”⁷⁴ In an unprecedented move, twenty bankruptcy judges in the district signed the opinion. Although BLAG initially sought to intervene, it declined to appeal the decision. As a result, the US Trustee is no longer enforcing DOMA’s federal definitions provision in bankruptcy courts.

3. Is the Federal Definitions Provision Relevant in Bankruptcy?

Although the US Trustee is no longer enforcing the federal definitions provision of DOMA, it is still valid law. But after *Balas* only a trustee, creditor or other party in interest is likely to raise it.⁷⁵ For example, in *In re Nakamura*, the Chapter 7 trustee attempted to avoid the Bank’s lien on property because the bank failed to obtain the signature of both spouses in violation of Idaho law.⁷⁶ The Bank challenged the validity of the marriage and thus the need for the second signature, arguing that the debtors’ purported common law marriage was unrecognized under state law.⁷⁷ The court agreed, finding that the wife had no interest in the property and, as a result, the Bank was under no obligation to obtain her signature.⁷⁸

⁷⁴ See *In re Balas*, 449 B.R. at 579.

⁷⁵ See *In re Nakamura*, No. 06–40685–JDP, 2008 WL 191811 (Bankr.D.Idaho 2010)(lienholder questioned the validity of common law marriage when Trustee sought to avoid lien because wife did not sign mortgage as required under Idaho law).

⁷⁶ Id. at *2.

⁷⁷ Id. at *4-5.

⁷⁸ Id. at *6.

As of this writing, there are no reported cases after the *Balas* decision in which DOMA has been raised.

4. What's In a Name?

Assuming the federal definitions provision is now irrelevant, how should bankruptcy courts treat relationships other than marriage? As explained earlier, states have chosen a variety of methods to recognize same-sex relationships. Each approach brings with it a different name – marriage, civil unions, domestic partnerships, reciprocal beneficiaries – and, in some cases, different rights and obligations. Should parties to a civil union or domestic partnership be allowed to file joint petitions? Are they “spouses” or “married” for purposes of the Bankruptcy Code?

When asked whether spouses to a civil union could file joint tax returns, the IRS opined that “if Illinois treats the parties to an Illinois civil union who are of opposite sex as husband and wife, they are considered ‘husband and wife’ for purposes of Section 6013 of the Internal Revenue Code.”⁷⁹ This would seem to suggest the federal government, or at least the IRS, will look to the scope of the rights provided under state law rather than the name assigned to the relationship when applying federal law. But it remains an open question. For example, in *Dragovich v. Dept. of Treasury*,⁸⁰ the plaintiffs, federal employees seeking benefits for their same-sex spouses and domestic partners, contended that but for DOMA registered domestic partners would be treated as spouses under federal law. The BLAG resisted such an argument

⁷⁹ Letter from Pamela Wilson Fuller, Senior Technician Reviewer for IRS Branch 2 to Robert Shair, Senior Tax Advisor (August 30, 2011).

⁸⁰ No. C 10-01564 CW, 2012 WL 1909603 (N.D.Cal., May 24, 2012).

and the district court noted “that § 3 of the DOMA does not expressly address registered domestic partners.”⁸¹

At least one bankruptcy court has treated domestic partners as spouses for purposes of interpreting state law. A California bankruptcy court grappled with whether registered domestic partners were “married” for purposes of the state’s single homestead exemption rule. In *In re Rabin*,⁸² two women, registered as domestic partners under California law, each filed for Chapter 7 bankruptcy and each claimed a \$75,000 exemption under state law. The trustee objected to the dual exemption, arguing that California law allowed spouses a single exemption. The debtors contended that because the California Code pertaining to exemptions stated that the single exemption was limited explicitly to *married* debtors it was inapplicable to them. The bankruptcy court, district court, and Ninth Circuit all rejected the debtors’ contention, concluding that California’s domestic partnership law provided domestic partners with all the rights and obligations of spouses including the exemption limitations. The Ninth Circuit reasoned:

[t]he issue at hand is an economic one: the degree of protection from creditors to be accorded to debtors. Wherever the line may be drawn by California's courts between marital status on one hand, and the economic rights and liabilities of couples on the other, we hold that application of the homestead exemption statute clearly falls in the latter category. In so holding, we follow the plain language of the DPRRA, and uphold a result more consonant with the Legislature's stated purpose of equalizing, for purposes of creditor/debtor relations, the status of registered domestic partners and married couples.⁸³

While the Ninth Circuit was addressing state law, these same questions exist under the Code as well and, as indicated by the IRS letter, the court’s reasoning seems equally applicable to the interpretation of federal law.

⁸¹ Id. at *14.

⁸² 359 B.R. 242 (9th Cir. 2007).

⁸³ Id. at 248.

B. Choice of Law Provision

1. Generally

Even if the federal definitions provision is no longer applicable in bankruptcy, debtors may still face difficulty if they either file bankruptcy, own property or have other property interests in a state that does not recognize their marriage, contracts rights arising from the marriage or judgments related to the relationship. The federal DOMA contains a choice of law provision that states:

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.⁸⁴

The choice of law provision does two things. It gives permission to states to reject marriages validly performed in other states. As noted earlier, 40 states have statutes or constitutional amendments prohibiting marriages and in some instances refusing to recognize marriages performed in other states. Under these statutes, State B could refuse to recognize a marriage between two men validly performed in State A and arguably deny the couple state benefits based on marital status.

But perhaps more significantly, it creates an exception to the Full Faith and Credit Clause. The Clause states that “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.”⁸⁵ Congress arguably exercised its power under the so-called exceptions

⁸⁴ 28 U.S.C. § 1738C.

⁸⁵ U.S. Const. art. IV.

clause when it passed DOMA and granted states the power to reject “judicial proceedings of any other State.” Under this provision, State B could refuse to recognize a domestic support order issued by a court in State A.

The Supreme Court has yet to rule on whether Article IV allows Congress to provide an exception to the Full Faith and Credit Clause or whether other constitutional provisions may prevent a state from rejecting a valid judgment from a sister state.⁸⁶ In *Williams v. North Carolina*, the Supreme Court stated “[w]hether Congress can create exceptions [to the credit due judgments] is a question on which we express no view.”⁸⁷ More recently, however, the Court has expressed doubt whether Congress has this authority. In *Thomas v. Washington Gas Light Co.*, the Court stated “there is at least some question whether Congress may cut back on the measure of faith and credit required by a decision of this Court.”⁸⁸

As of this writing, the constitutionality of DOMA’s exception to full faith and credit remains an open question. The Fifth and Tenth Circuits have considered the question in the context of adoptions. In *Finstuen v. Crutcher*, the Tenth Circuit held that an Oklahoma law that allowed the state to refuse to recognize an adoption by more than one individual of the same sex from any other state or foreign jurisdiction was unconstitutional because it failed to recognize the judgment of a sister state.⁸⁹

In *Adar v. Smith*, the Fifth Circuit rejected the Tenth Circuit’s conclusion, upholding a Louisiana law which did not permit unmarried couples to obtain revised birth certificates for

⁸⁶ See generally, Mark Strasser, *The Legal Landscape Post-DOMA*, 13 J. GENDER RACE & JUST. 153 (Fall 2009)(discussing the potential issues raised by Congress’ decision to create an exception to the FFC”).

⁸⁷ *Williams v. North Carolina*, 317 U.S. 287, 303 (1942).

⁸⁸ 448 U.S. 261, 272 (1980).

⁸⁹ 496 F.3d 1139, 1156 (10th Cir. 2005).

child adopted out-of-state with both adoptive parents' names.⁹⁰ In *Adar*, a same-sex couple legally adopted an infant under New York law. The couple then sought to obtain a Louisiana birth certificate with both parents names listed and the Registrar refused. Quoting the Supreme Court case *Sun Oil Co. v. Wortman*, the court stated “The Full Faith and Credit Clause does not compel ‘a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate.’”⁹¹ The Fifth Circuit also read the Full Faith and Credit Clause to apply only to the state courts and not to state agencies. Thus, the Louisiana Registrar was under no obligation to issue a birth certificate. The court went on to note that the lack of a Louisiana birth certificate in no way invalidated the New York adoption.

Neither case translates easily to the marriage arena, however. While states have always been free to reject marriages validly performed in other states if it violated a public policy of the state, states were not allowed to reject *judgments* stemming from those relationships. Whether Congress overstepped its authority is an unresolved issue.

2. Choice of Law in Bankruptcy

Bankruptcy courts often look to state law to define the parties’ rights and obligations. Is a bankruptcy court sitting in a state that refuses to recognize a marriage and its attendant rights between a same-sex couple obligated to follow that state’s law in determining the property interests of the parties in bankruptcy? Consider the following examples:

- A couple validly marries in Iowa but files for bankruptcy in Minnesota.
- A couple obtains a divorce and the Iowa state court issues a domestic support order and former spouse files for bankruptcy in Florida.

⁹⁰ 639 F.3d 146, 160 (5th Cir. 2011)

⁹¹ *Id.*

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The hypotheticals raise two distinct choice of law issues. First, are the Minnesota and Florida bankruptcy courts free to recognize the marriage or divorce judgment for purposes of *federal* law? For example, could the court allow the couple to file jointly even though the court sits in a state that doesn't recognize the relationship? The three bankruptcy courts that decided *Somers*, *Ziviello-Howell*, and *Balas* did not need to address this issue. The debtors in *Ziviello-Howell* and *Balas* were married in California and filed bankruptcy petitions there. Although the debtors in *Somers* were married in Vermont and filed their petition in New York, New York explicitly recognizes marriages properly performed in other states.

The answer to the first question is arguably yes. The bankruptcy court is interpreting and applying federal law not Minnesota state law. Debtors should not lose the rights provided under the Bankruptcy Code simply because they move across state lines. A couple validly married under Iowa law should have the ability to file a joint petition regardless of whether they file in Iowa or in Minnesota. To hold otherwise would result in federal law being held hostage to the domestic agendas of the individual states. Moreover, such an approach serves the bankruptcy system's interest in uniformity and predictability of outcome and will aid in the fair and efficient administration of the bankrupt's estate.⁹²

Second, is the Minnesota bankruptcy court free to recognize the marriage for purposes of *state* law? Is it possible for the court to recognize the relationship for purposes of joint filing but refuse to recognize the relationship for purposes of state exemption law? For example, Minnesota homestead exemption law provides:

If the debtor be married the homestead title may be vested in either spouse, and the exemption shall extend to the debts of either or of both. Any interest in the land, whether legal or equitable, shall constitute ownership, within the meaning of

⁹² See *Assocs. Commercial Corp. v. Rash*, 520 U.S. 953, 965 (1997).

this chapter, and the dwelling house so owned and occupied shall be exempt, though situated on the land of another.⁹³

Can a Minnesota bankruptcy court consider a couple married under Iowa law “spouses” for purposes of the Minnesota homestead exemption? *Butner v. United States*⁹⁴ instructs bankruptcy courts to look to state law, in the absence of a compelling federal interest, to determine the existence and scope of the debtor's interest in property.⁹⁵ Assuming the absence of a compelling federal interest,⁹⁶ bankruptcy courts must determine *which* state's law to apply. To do so, bankruptcy courts must apply the appropriate choice of law rule. But courts must first decide *which* choice of law rules to apply - the forum state's rule or a distinct federal choice of law rule untethered to the forum state's law.

⁹³ Minn. Stat. Ann. § 510.04 (West, 2009).

⁹⁴ 440 U.S. 48 (1979).

⁹⁵ *Id.* at 55.

⁹⁶ There are several provisions of the Bankruptcy Code that do not use the term “spouse” or “marriage” but where property rights are tied to relationship status. *Butner* instructs bankruptcy courts to look to state law, in the absence of a compelling federal interest, to determine the existence and scope of the debtor's interest in property. *Butner*, 440 U.S. at 55. The question then becomes whether DOMA evinces such a compelling federal interest that bankruptcy courts should ignore property rights based on same-sex relationship recognition. The simple answer is “no.” First, DOMA was passed, in part, to provide states with the freedom to choose whether they would recognize same-sex marriages or civil unions. *See H.R. Rep. No. 104-664, at 2 (1996)*, as reprinted in 1996 U.S.C.C.A.N. 2905, 2906. If a state chooses to offer marital benefits to same-sex couples, DOMA does not provide a federal court the power to override that decision. Second, even if DOMA were read differently, *Butner* does not incorporate just any federal interest. *Butner* explicitly instructs courts to ignore state law only if the state law conflicts with federal bankruptcy policy.

“The Federal Constitution, Article I, § 8, gives Congress the power to establish uniform laws on the subject of bankruptcy throughout the United States. In view of this grant of authority to the Congress it has been settled from an early date that state laws to the extent that they conflict with the laws of Congress, enacted under its constitutional authority, on the subject of bankruptcies are suspended. While this is true, state laws are thus suspended only to the extent of actual conflict with the system provided by the Bankruptcy Act of Congress.”

Butner, 440 U.S. at 54, n. 9. DOMA was not enacted under Congress' constitutional authority to create uniform laws on the subject of bankruptcies nor do state laws that provide relationship recognition conflict with the federal bankruptcy system. DOMA simply provides no “compelling federal interest” that would allow bankruptcy courts to ignore valid state relationship recognition laws and attendant property interest.

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The Supreme Court has yet to address the appropriate choice of law rule in bankruptcy.⁹⁷ In the absence of guidance, lower courts have followed various paths when determining choice of law rules in bankruptcy cases. These approaches can be distilled to three methodologies. In some instances, the courts apply the Supreme Court's decision in *Klaxon Co. v. Stentor Elec. Mfg. Co.* which held that a federal court sitting in diversity must apply the forum's choice of law rules.⁹⁸ In other instances, the courts assume that *Klaxon* does not apply when the court's jurisdiction is based on the presence of a federal question and thus look to the dictum in *Vanston Bondholder Protective Comm. v. Green*, which seems to suggest that courts are free to adopt federal rule choice of law rule distinct from the forum state's rule.⁹⁹ And finally, a few courts take a less categorical approach, in general applying the forum state's choice of law rules in the absence of an overriding federal interest.¹⁰⁰ Unlike courts applying *Klaxon*, this approach leaves the door open for the adoption of a federal choice of law rule distinct from the forum state's rule.

As a result, the answer to the second set of questions is less clear. If the bankruptcy court applies *Klaxon*, Minnesota choice of law rules will likely require application of Minnesota

⁹⁷ *D'Oench, Duhme & Co. v. FDIC*, 315 U.S. 447 (1942); *Vanston Bondholder Protective Committee v. Green*, 329 U.S. 156 (1946).

⁹⁸ See *Klaxon Co. v. Stentor Electric Mfg. Co.*, 313 U.S. 487 (1941); *Amtech Lighting Servs. v. Payless Cashways, Inc.* (In re Payless Cashways), 203 F.3d 1081, 1084 (8th Cir. 2000); *Carter Enters., Inc. v. Ashland Specialty Co.*, 257 B.R. 797, 801-02 (S.D.W.Va. 2001).

⁹⁹ 329 U.S. 833 (1947). See, also, *Lindsay v. Beneficial Reinsurance Co. (In re Lindsay)*, 59 F.3d 942, 948 (9th Cir. 1995) ("In federal question cases with exclusive jurisdiction in federal court, such as bankruptcy, the court should apply federal, not forum state, choice of law rules."); *Mandalay Resort Group v. Miller (In re Miller)*, 292 B.R. 409, 413 (B.A.P. 9th Cir. 2003) ("Federal choice of law rules follow the approach of the Restatement (Second) of Conflict of Laws...."); *Olympic Coast Inv., Inc. v. Wright (In re Wright)*, 256 B.R. 626, 632 (Bankr. D. Mont. 2000).

¹⁰⁰ See, e.g., *Bianco v. Erkins (In re Gaston & Snow)*, 243 F.3d 599, 606 (2d Cir. 2001) ("Before federal courts create federal common law, 'a significant conflict between some federal policy or interest and the use of state law must first be specifically shown.'" (quoting *Atherton v. FDIC*, 519 U.S. 213, 218 (1997))); *Compliance Marine, Inc. v. Campbell (In re Merritt Dredging Co.)*, 839 F.2d 203, 206 (4th Cir. 1988) ("We believe, however, that in the absence of a compelling federal interest which dictates otherwise, the *Klaxon* rule should prevail where a federal bankruptcy court seeks to determine the extent of a debtor's property interest."); *FDIC v. Lattimore Land Corp.*, 656 F.2d 139, 150 n.16 (5th Cir. 1981) (applying the forum's choice of law rule in the absence of an overriding federal policy).

domestic relations law. As a result, debtors validly married in Iowa would not be considered married for purposes of Minnesota exemption laws. Bankruptcy courts could adopt a federal rule that allows a less categorical approach. In creating the federal choice of law rule, the courts could choose a rule that best promotes the federal policies underlying bankruptcy. These policies include aiding a debtor's fresh start upon emergence from bankruptcy and the ratable distribution of available assets among creditors.¹⁰¹ In addition, the courts should strive to maintain the justified expectations of the parties to a transaction so that their rights are not unnecessarily undermined by the “happenstance of bankruptcy.” Unless congressionally mandated, a party should not receive more or less than what could have been obtained outside of bankruptcy.¹⁰² Allowing bankruptcy courts to adopt a flexible choice of law rule that is sensitive to underlying bankruptcy policies rather than a state’s domestic relations agenda is the more prudent and equitable alternative.

The second hypothetical is arguably easier. Under Florida law, a state court may not give effect to any claim arising from a prohibited relationship. If the bankruptcy court were to apply Florida domestic relations law then it would appear the domestic support obligation would be void. But what constitutes a “domestic support obligation” in bankruptcy is a question of federal law.¹⁰³ While bankruptcy courts may look to state court for guidance, the court is not obliged to

¹⁰¹ *BFP v. Resolution Trust Corp.*, 511 U.S. 531, 563 (1994).

¹⁰² *Butner*, 440 U.S. at 55 (quoting *Lewis v. Mfrs. Nat'l Bank*, 364 U.S. 603, 609 (1961)). In *Butner* the Court surmised that the “[u]niform treatment of property interests by both state and federal courts within a State serves to reduce uncertainty, to discourage forum shopping, and to prevent a party from receiving ‘a windfall merely by reason of the happenstance of bankruptcy.’”

¹⁰³ See *In re Boller*, 393 B.R. 569, 574 (Bankr.E.D.Tenn.2008). See also *Cook v. Bieluch (In re Bieluch)*, 219 B.R. 14, 20 (Bankr.D.Conn.1998) (Dabrowski, J), *aff'd*, 216 F.3d 1071 (2d Cir.2000) (“[A]lthough a bankruptcy judge may consult state law for guidance as to whether a debt is actually in the nature of alimony, maintenance or support, the determination is necessarily one premised upon federal bankruptcy law.”); *Tatge v. Tatge (In re Tatge)*, 212 B.R. 604, 608 (8th Cir. BAP 1997).

follow a state law pronouncement regarding the nature of the obligation.¹⁰⁴ Whether the Florida state court may refuse to recognize a valid domestic support order from Iowa has no bearing on whether the bankruptcy court will treat the order as a domestic support obligation under federal law.

3. The § 522(b)(3) Choice of Law Dilemma

The Bankruptcy Code actually does contain an explicit choice of law rule in at least one instance. Section 522(b)(3) instructs courts to apply the state law exemptions of the state where the debtor was domiciled 730 days before the petition filing. Consider the following scenario:

- A couple moves from North Carolina to Vermont and is validly married. The couple files for bankruptcy five months after moving.

Under § 522(b)(3), the debtor spouses will be required to use North Carolina's state exemption laws. Under North Carolina law debtor-spouses can double their exemptions. But North Carolina does not recognize marriages "between individuals of the same gender."¹⁰⁵ While federal law requires the Vermont bankruptcy court to apply North Carolina's exemption laws, is the court also required to apply the state's laws regarding marriage? Or can the Vermont bankruptcy court apply Vermont law for purposes of marriage recognition and North Carolina law for purposes of the couple's exemptions?

In drafting this provision, Congress intended that North Carolina exemption law be applied but did it intend that North Carolina domestic relations law be applied as well? Bankruptcy courts have been struggling with the extra-territorial reach of state exemption laws under § 522(b)(3) since the provision was adopted in 2005.¹⁰⁶ Courts have struggled to determine

¹⁰⁴ See *In re Goodale*, 298 B.R. 886 (Bankr. W.D. Wash. 2003).

¹⁰⁵ N.C. GEN. STAT. §51-1.2.

¹⁰⁶ See *In re Garrett*, 435 B.R. 434 (Bankr. S.D.TX 2010)(describing current debate and citing relevant cases).

whether § 522(b)(3) preempts relevant state law provisions that limit the availability of exemptions to residents.¹⁰⁷ While Congress arguably intended to export state exemption laws in certain instances, it is not clear that it intended to export state domestic relation laws as well. Indeed, requiring the Vermont bankruptcy court to apply the North Carolina domestic relations law would arguably violate Vermont's public policy and Constitution. Moreover, it would violate the intent of DOMA – limiting the reach of a state's marriage laws.

Bankruptcy courts could side the step the issue by applying Vermont's domestic relations law and North Carolina's exemption laws. Nothing in § 522(b)(3) language or legislative history requires a different approach. Or courts could avoid the result by relying on the subsection's concluding paragraph: "If the effect of the domiciliary requirement . . . is to render the debtor ineligible for any exemption, the debtor may elect to exempt property under subsection (d)." In the hypothetical presented, however, the debtor is not so much ineligible for the exemption as ineligible to double the exemption. Moreover, under this scenario at least, North Carolina has a more generous homestead exemption than the Code so debtors may not always benefit from such an approach.

III. Conclusion

The intersection of bankruptcy and domestic relations law is incredibly complex and bankruptcy practitioners and courts are at the forefront of the fast moving changes occurring in this area. But at this point in time there are more questions than answers. Practitioners must challenge long-held assumptions about the intersection of the Code and state domestic relations law. What is true in the context of marriages between opposite-sex partners is not necessarily applicable in the context of unions between same-sex partners. Practitioners need to think

¹⁰⁷ Id. at 448-449.

Southwest Bankruptcy Conference

strategically about the application of state law in bankruptcy when the debtors are same-sex spouses.

IN RE BALAS AND MORALES

2:11-bk-17831

United States Trustee Objection to Plan Confirmation

United States Trustee Motion to Dismiss Case

Request for Judicial Notice in Support of United States
Motion to Dismiss Case

Debtor's Opposition and Response to United States Trustee Motion
and Opposition

Transcript of Hearing May 17, 2011

Order Continuing Hearing

Debtor's Further Reply

Transcript of Hearing June 13, 2011

Memorandum of Decision

Order Overruling United States Trustee Objection to Plan
Confirmation

Order Dismissing Appeal

Southwest Bankruptcy Conference

1 PETER C. ANDERSON
2 UNITED STATES TRUSTEE
3 JILL M. STURTEVANT, State Bar No. 89395
4 ASSISTANT UNITED STATES TRUSTEE
5 HATTY YIP, State Bar No. 246487
6 TRIAL ATTORNEY
7 OFFICE OF THE UNITED STATES TRUSTEE
8 725 So. Figueroa Street, Suite 2600
9 Los Angeles, California 90017
10 (213) 894-1507 telephone
11 (213) 894-2603 facsimile
12 Email: hatty.yip@usdoj.gov

8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 LOS ANGELES DIVISION

11 In re:) Case Number 2:11-bk-17831-AA
12) Chapter 13
13 **GENE DOUGLAS BALAS and CARLOS A.**) **UNITED STATES TRUSTEE'S**
14 **MORALES,**) **OBJECTION TO CONFIRMATION**
15 Debtor(s).) **OF PLAN; AND DECLARATION**
16) **OF HATTY YIP IN SUPPORT**
17) **THEREOF**
18 Date: May 11, 2011
19 Time: 1:30 p.m.
20 Courtroom: 1345
21 255 E. Temple Street
22 Los Angeles, CA 90012

22 **TO THE HONORABLE THOMAS DONOVAN, UNITED STATES BANKRUPTCY**
23 **JUDGE, DEBTORS, DEBTORS' COUNSEL, CREDITORS AND OTHER INTERESTED**
24 **PARTIES:**

25 The United States Trustee for the Central District of California (hereafter "U.S. Trustee"),
26 through the undersigned attorney, hereby submits this Objection to Confirmation of Plan
27 ("Objection") on the grounds that the Debtors' proposed chapter 13 plan does not comply with the
28 applicable provisions of title 11 as required under 11 U.S.C. § 1325(a)(1).


1 The U.S. Trustee, pursuant to LBR 3015-1(g)(2)(B), made an oral objection on the record
2 at the Debtors' § 341(a) meeting of creditors held on March 28, 2011.¹ As further detailed in the
3 U.S. Trustee's Motion to Dismiss,² filed concurrently with this Objection, the U.S. Trustee submits
4 that the Debtors have filed a joint case not authorized by 11 U.S.C. § 302. As a result, the Debtors
5 impermissibly seek the consolidated administration of their liabilities through a chapter 13
6 repayment plan. Because the Debtors have filed a joint case not authorized by 11 U.S.C. § 302, the
7 Debtors' plan does not comply with the provisions of chapter 13 and with other applicable
8 provisions of title 11, as required by § 1325(a)(1).

9 WHEREFORE, the U.S. Trustee respectfully requests that the Court sustain this Objection
10 and deny confirmation of the Debtors' plan..

11
12 Respectfully submitted,

13 PETER C. ANDERSON
14 UNITED STATES TRUSTEE

15 Dated: April 15, 2011

16 By: 
17 HATTY YIP
18 Attorney for the United States Trustee
19
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25 _____
26 ¹See Declaration of Hatty Yip ("Yip Declaration") at ¶ 2.

27 ²See United States Trustee's Notice of Motion and Motion to Dismiss Pursuant to 11
28 U.S.C. §1307(c) or for Related Relief ("U.S. Trustee's Motion to Dismiss"), and U.S. Trustee's
Request for Judicial Notice ("RJN") filed concurrently with this Objection.

Southwest Bankruptcy Conference

Case 2:11-bk-17831-NB Doc 26 Filed 04/15/11 Entered 04/15/11 15:10:45 Desc
Main Document Page 3 of 7

**DECLARATION OF
HATTY YIP**

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DECLARATION OF HATTY YIP

I, HATTY YIP, hereby declare as follows:

1. I am over the age of eighteen years, I have personal knowledge of the facts set forth in this Declaration, and if called upon to testify I could and would do so competently. I am employed as a Trial Attorney by the Office of the United States Trustee for the Central District of California. I am the Trial Attorney assigned to In re: Gene Douglas Balas and Carlos A. Morales (“Debtors”), Case No. 2:11-bk-17831-AA.

2. On March 28, 2011, I personally attended the Debtors’ § 341(a) meeting of creditors in its entirety. Debtors appear to be two males. I stated on the record at the § 341(a) meeting that pursuant to LBR 3015-1(g)(2)(B), the United States Trustee objects to plan confirmation on the grounds that the Debtors are not eligible to file a joint petition.

I declare under penalty of perjury that the foregoing facts are true and correct.

Executed on April 4, 2011, in Los Angeles, California.


HATTY YIP

Southwest Bankruptcy Conference

NOTE: When using this form to indicate service of a proposed order, DO NOT list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

725 South Figueroa Street, Suite 2600, Los Angeles, California 90017-1574

A true and correct copy of the foregoing document described as: UNITED STATES TRUSTEE'S OBJECTION TO CONFIRMATION OF PLAN; AND DECLARATION OF HATTY YIP IN SUPPORT THEREOF

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 4/15/11 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- Kathy A Dockery (TR) efilng@CH13LA.com
M Jonathan Hayes jhayes@polarisnet.net
Peter M Lively PeterMLively2000@yahoo.com, PeterMLively2000@yahoo.com
Robert J Pfister rpfister@ktbslaw.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served): On 4/15/11 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

SEE ATTACHED SERVICE LIST (IF APPLICABLE)

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 4/15/11 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed. Upon filing I will be giving a filed document to a Court delivery service consistent with our normal business practice, with instructions to deliver the copy to the bin outside the suite (Court Manual Appendix F), as follows:

The Honorable Alan M. Ahart, Judge Ahart's Courtesy Bin outside Suite 1382, 255 E. Temple St, Los Angeles, CA 90012
The Honorable Thomas Donovan, Courtesy Bin outside Suite 1352, 255 E. Temple St., Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

4/15/11
Date

HELEN CRUZ
Type Name

Signature (Handwritten signature of Helen Cruz)

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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Case 2:11-bk-17831-NB Doc 26 Filed 04/15/11 Entered 04/15/11 15:10:45 Desc
Main Document Page 6 of 7

ADDITIONAL SERVICE INFORMATION

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL:

DEBTORS:

Gene Douglas Balas & Carlos A. Morales, 5702 Lindenhurst Ave., Los Angeles, CA 90036

DEBTORS' COUNSEL:

Peter M. Lively, The Law Offices of Peter M Lively, 11268 Washington Blvd Ste 203, Culver City, CA 90230-4647

DEBTORS' COUNSEL:

Robert J Pfister, Klee Tuchin Bogdanoff & Stern LLP, 1999 Ave of the Stars 39th Fl, Los Angeles, Ca 90067

CREDITORS:

American Honda Finance Corp., Acura Financial Services, PO Box 168088, Irving TX 75016-8088

BANK OF AMERICA, P.O. BOX 15026, WILMINGTON, DE 19850

BMW FINANCIAL SERVICES, C/O VITAL RECOVERY SERVICES, INC., P.O. BOX 923748, NORCROSS, GA 30010

BMW FINANCIAL SERVICES, P.O. BOX 3608, DUBLIN, OH 43016-0306

Candica L.L.C , C O WEINSTEIN AND RILEY, PS, 2001 WESTERN AVENUE, STE 400, SEATTLE, WA 98121

Candica L.L.C, C O WEINSTEIN AND RILEY, PS, 2001 WESTERN AVENUE, STE 400, SEATTLE, WA 98121

CAPITAL ONE BANK, P.O. BOX 30285, SALT LAKE CITY, UT 84130

CEDARS-SINAI, P.O. BOX 60109, LOS ANGELES, CA 90060

CHASE, P.O. BOX 15298, WILMINGTON, DE 19850

CHEVRON CREDIT BANK, P.O. BOX 5010, CONCORD, CA 94524

CITIBANK, P.O. BOX 26892, SAN FRANCISCO, CA 94126

CONSULTANTS FOR PATHOLOGY, 4607 LAKEVIEW CANYON RD., SUITE 598, WESTLAKE VILLAGE, CA 91361

EMPLOYMENT DEVELOPMENT DEPARTMENT, State of California, Benefit Overpayment Collection Section, MIC 91, P.O. Box 826218, Sacramento, CA 94230-6218

FIA Card Services aka Bank of America, c o Becket and Lee LLP, POB 3001, Malvern, PA 19355-0701

FIA Card Services, NA as successor in interest to, Bank of America NA and MBNA America Bank, 1000 Samoset Drive, DE5-023-03-03 , Newark, DE 19713

Franchise Tax Board, Bankruptcy Section MS A340, PO BOX 2952, Sacramento CA 95812-2952

FRANCHISE TAX BOARD, ATTENTION: BANKRUPTCY, P.O. BOX 2952, SACRAMENTO, CA 95812

HSBC Bank Nevada, N.A., by PRA Receivables Management, LLC, PO Box 12907, Norfolk VA 23541

HSBC CARD SERVICES, C/O HUNT & HENRIQUES, 151 BERNAL ROAD, SUITE 8, SAN JOSE, CA 95119

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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Case 2:11-bk-17831-NB Doc 26 Filed 04/15/11 Entered 04/15/11 15:10:45 Desc
Main Document Page 7 of 7

HSBC CARD SERVICES, P.O. BOX 81622, SALINAS, CA 93912

HSBC CARD SERVICES, HUNT & HENRIQUES, 151 BERNAL ROAD, SUITE 8, SAN JOSE, CA 95119

HSBC CARD SERVICES, C/O NCO FINANCIAL SYSTEMS, P.O. BOX 15372, WILMINGTON, DE 19850

INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATION, P.O. BOX 7346, PHILADELPHIA,
PA 19101-7346

INTERNAL REVENUE SERVICE, P.O. BOX 21126, PHILADELPHIA, PA 19114

MD PERIODONTICS, A. MOSHREFI, DDS MS & N. DANESHMAND, 9735 WILSHIRE BLVD., SUITE 211,
BEVERLY HILLS, CA
90212

Park La Brea, 6200 W. Third Street, Los Angeles, CA 90036

SALLIE MAE, P.O. BOX 9533, WILKES-BARRE, PA 187773-9533

Sallie Mae Inc. on behalf of USA FUNDS, Attn: Bankruptcy Litigation Unit E3149, P.O. Box 9430, Wilkes-Barre, PA
18773-9430

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

August 2010

F.9013-3.1.PROOF.OF.SERVICE

1 PETER C. ANDERSON
 UNITED STATES TRUSTEE
 2 JILL M. STURTEVANT, State Bar No. 89395
 ASSISTANT UNITED STATES TRUSTEE
 3 HATTY YIP, State Bar No. 246487
 TRIAL ATTORNEY
 4 OFFICE OF THE UNITED STATES TRUSTEE
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**UNITED STATES BANKRUPTCY COURT
 CENTRAL DISTRICT OF CALIFORNIA
 LOS ANGELES DIVISION**

<p>In re:</p> <p>GENE DOUGLAS BALAS and CARLOS A. MORALES,</p> <p style="padding-left: 100px;">Debtor(s).</p>	<p>) Case Number 2:11-bk-17831-AA</p> <p>) Chapter 13</p> <p>) UNITED STATES TRUSTEE'S</p> <p>) NOTICE OF MOTION AND</p> <p>) MOTION TO DISMISS PURSUANT</p> <p>) TO 11 U.S.C. § 1307(c) OR FOR</p> <p>) RELATED RELIEF</p> <p>) Date: May 11, 2011</p> <p>) Time: 1:30 p.m.</p> <p>) Courtroom: 1345</p> <p>) 255 E. Temple Street</p> <p>) Los Angeles, CA 90012</p>
--	---

TO THE HONORABLE THOMAS DONOVAN, UNITED STATES BANKRUPTCY JUDGE, DEBTORS, DEBTORS' COUNSEL, CREDITORS AND OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE THAT, on May 11, 2011, at 1:30 p.m., or as soon thereafter as the matter may be heard, the United States Trustee for the Central District of California (hereafter "U.S. Trustee"), through the undersigned attorney, will and hereby does move this Court to enter an Order dismissing this case under 11 U.S.C. § 1307(c), unless the Debtors voluntarily sever their

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1 joint petition, on the ground that the debtors have filed a joint case not authorized by 11 U.S.C. §
2 302.

3 If you wish to oppose or respond to this motion, you must file a written response with the
4 Clerk of the United States Bankruptcy Court at Edward R. Roybal Building and Courthouse, 255
5 E. Temple St., Room 940, Los Angeles, California, 90012, serve a copy of it on the U.S. Trustee
6 at the address set forth above and upon the Chapter 13 Trustee (see attached service list) no less
7 than 14 days prior to the above hearing date. If you fail to file a response to this motion within such
8 time period, the Court may treat such failure as a waiver of your right to oppose the motion and
9 may grant the requested relief.

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Respectfully submitted,
PETER C. ANDERSON
UNITED STATES TRUSTEE

DATED: April 15, 2011

By: 
HATTY YIP
Attorney for the United States Trustee

1 **UNITED STATES TRUSTEE'S MOTION TO**
2 **DISMISS PURSUANT TO 11 U.S.C. § 1307(c), OR FOR RELATED RELIEF**

3 **I. INTRODUCTION**

4 The U.S. Trustee hereby moves this Court to dismiss this case pursuant to 11 U.S.C. §
5 1307(c), unless the debtors voluntarily sever their joint petition, on the ground that the Debtors have
6 filed a joint case not authorized by 11 U.S.C. § 302.

7 The U.S. Trustee is charged with supervising the administration of cases under chapter 7
8 of title 11. 28 U.S.C. § 586. In furtherance of that duty, the U.S. Trustee is granted standing to
9 raise and be heard on any issue in any bankruptcy case or proceeding. 11 U.S.C. § 307.

10 The U.S. Trustee requests the Court enter an order dismissing this case, unless the Debtors
11 voluntarily sever their joint petition, based upon the following facts and law.

12 **II. STATEMENT OF FACTS**

13 1. Debtors Gene Douglas Balas and Carlos A. Morales ("Debtors") filed a joint
14 voluntary chapter 13 petition on February 24, 2011.¹ Debtors are represented by counsel, Peter M.
15 Lively.² Kathy A. Dockery was appointed the chapter 13 trustee, and the first meeting of creditors
16 was scheduled for, and held on, March 28, 2011.³

17 2. Debtors, two men, were legally married in the state of California on August 30,
18 2008, and were still married as of the date of filing the petition.⁴

19 **III. ARGUMENT**

20 3. Section 302 of the Bankruptcy Code, the exclusive means for the filing of a joint
21

22 ¹See *Case Docket for In re: Gene Douglas Balas and Carlos A. Morales, case no. 2:11-*
23 *bk-17831-AA, ("Case Docket")*, U.S. Trustee's Request for Judicial Notice ("RJN") filed
concurrently with this Motion.

24 ²See *Case Docket*, U.S. Trustee's RJN filed concurrently with this Motion.

25 ³See *Case Docket*, U.S. Trustee's RJN filed concurrently with this Motion.

26 ⁴The State of California granted marriage licenses to same-sex couples from June 16,
27 2008 to November 4, 2008. See *In re Marriage Cases*, 183 P.3d 384 (2008). However, the
28 granting of such licenses was discontinued following the passage of a ballot initiative amending
California's Constitution. Cal. Const. art. I, § 7.5.

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1 voluntary bankruptcy case, permits "the filing with the bankruptcy court of a single petition under
2 [chapter 7] by an individual that may be a debtor under such chapter and such individual's spouse."
3 11 U.S.C. § 302 (a) (emphasis added).


4 4. For purposes of federal law, the term "spouse" refers only to a person of the opposite
5 sex, who is a husband or wife. 11 U.S.C. § 7.⁵ Because the Bankruptcy Code, including 11 U.S.C.
6 § 302, is an "Act of Congress," the ability to file a joint case in bankruptcy is restricted to married
7 couples of the opposite sex.

8 5. The remedy requested for Debtors' improper joint petition is appropriate. Section
9 1307(c) of the Bankruptcy Code permits dismissal of a case for cause after notice and a hearing.
10 11 U.S.C. § 1307(c). The examples of cause in section 1307(c) are merely illustrative and not
11 exhaustive. See Leavitt v. Soto (In re Leavitt), 171 F.3d 1219, 1224 (9th Cir. 1999). Thus, courts
12 confronting an improper joint petition have dismissed the case, or required debtors to amend their
13 petition subject to dismissal. See, e.g., In re Jephunneh Lawrence & Assoc. Chartered, 63 B.R.
14 318, 321 (Bankr. D. Colo. 1986) (dismissing case because joint petition was improperly filed by
15 corporation and its sole shareholder); In re Malone, 50 B.R. 2, 3 (Bankr. E.D. Mich. 1985)
16 (requiring unmarried, cohabiting couple to amend joint petition).

17 **WHEREFORE**, the U.S. Trustee respectfully requests that the Court dismiss this case,
18 unless the Debtors voluntarily sever their joint petition by a date certain.

19
20 Respectfully submitted,
21 PETER C. ANDERSON
22 UNITED STATES TRUSTEE

23 DATED: April 15, 2011

24
25 
26 By: HUI YIP
27 Trial Attorney

28 ⁵In its entirety, section 7 provides that "[i]n determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." 11 U.S.C. § 7.

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

725 South Figueroa Street, Suite 2600, Los Angeles, California 90017-1574

A true and correct copy of the foregoing document described as: UNITED STATES TRUSTEE'S NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO 11 U.S.C. §1307(c) OR FOR RELATED RELIEF

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 4/15/11 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- Kathy A Dockery (TR) efileing@CH13LA.com
M Jonathan Hayes jhayes@polarisnet.net
Peter M Lively PeterMLively2000@yahoo.com, PeterMLively2000@yahoo.com
Robert J Pfister rpfister@ktbslaw.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served): On 4/15/11 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

SEE ATTACHED SERVICE LIST (IF APPLICABLE)

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 4/15/11 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed. Upon filing I will be giving a filed document to a Court delivery service consistent with our normal business practice, with instructions to deliver the copy to the bin outside the suite (Court Manual Appendix F), as follows:

The Honorable Alan M. Ahart, Judge Ahart's Courtesy Bin outside Suite 1382, 255 E. Temple St, Los Angeles, CA 90012
The Honorable Thomas Donovan, Courtesy Bin outside Suite 1352, 255 E. Temple St., Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

4/15/11
Date

HELEN CRUZ
Type Name

Signature (Handwritten signature of Helen Cruz)

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Southwest Bankruptcy Conference

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ADDITIONAL SERVICE INFORMATION

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL:

DEBTORS:

Gene Douglas Balas & Carlos A. Morales, 5702 Lindenhurst Ave., Los Angeles, CA 90036

DEBTORS' COUNSEL:

Peter M. Lively, The Law Offices of Peter M Lively, 11268 Washington Blvd Ste 203, Culver City, CA 90230-4647

DEBTORS' COUNSEL:

Robert J Pfister, Klee Tuchin Bogdanoff & Stern LLP, 1999 Ave of the Stars 39th Fl, Los Angeles, Ca 90067

CREDITORS:

American Honda Finance Corp., Acura Financial Services, PO Box 168088, Irving TX 75016-8088

BANK OF AMERICA, P.O. BOX 15026, WILMINGTON, DE 19850

BMW FINANCIAL SERVICES, C/O VITAL RECOVERY SERVICES, INC., P.O. BOX 923748, NORCROSS, GA 30010

BMW FINANCIAL SERVICES, P.O. BOX 3608, DUBLIN, OH 43016-0306

Candica L.L.C , C O WEINSTEIN AND RILEY, PS, 2001 WESTERN AVENUE, STE 400, SEATTLE, WA 98121

Candica L.L.C, C O WEINSTEIN AND RILEY, PS, 2001 WESTERN AVENUE, STE 400, SEATTLE, WA 98121

CAPITAL ONE BANK, P.O. BOX 30285, SALT LAKE CITY, UT 84130

CEDARS-SINAI, P.O. BOX 60109, LOS ANGELES, CA 90060

CHASE, P.O. BOX 15298, WILMINGTON, DE 19850

CHEVRON CREDIT BANK, P.O. BOX 5010, CONCORD, CA 94524

CITIBANK, P.O. BOX 26892, SAN FRANCISCO, CA 94126

CONSULTANTS FOR PATHOLOGY, 4607 LAKEVIEW CANYON RD., SUITE 598, WESTLAKE VILLAGE, CA 91361

EMPLOYMENT DEVELOPMENT DEPARTMENT, State of California, Benefit Overpayment Collection Section, MIC 91, P.O. Box 826218, Sacramento, CA 94230-6218

FIA Card Services aka Bank of America, c o Becket and Lee LLP, POB 3001, Malvern, PA 19355-0701

FIA Card Services, NA as successor in interest to, Bank of America NA and MBNA America Bank, 1000 Samoset Drive, DE5-023-03-03 , Newark, DE 19713

Franchise Tax Board, Bankruptcy Section MS A340, PO BOX 2952, Sacramento CA 95812-2952

FRANCHISE TAX BOARD, ATTENTION: BANKRUPTCY, P.O. BOX 2952, SACRAMENTO, CA 95812

HSBC Bank Nevada, N.A., by PRA Receivables Management, LLC, PO Box 12907, Norfolk VA 23541

HSBC CARD SERVICES, C/O HUNT & HENRIQUES, 151 BERNAL ROAD, SUITE 8, SAN JOSE, CA 95119

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

August 2010

F.9013-3.1.PROOF.OF.SERVICE

American Bankruptcy Institute

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HSBC CARD SERVICES, P.O. BOX 81622, SALINAS, CA 93912

HSBC CARD SERVICES, HUNT & HENRIQUES, 151 BERNAL ROAD, SUITE 8, SAN JOSE, CA 95119

HSBC CARD SERVICES, C/O NCO FINANCIAL SYSTEMS, P.O. BOX 15372, WILMINGTON, DE 19850

INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATION, P.O. BOX 7346, PHILADELPHIA,
PA 19101-7346

INTERNAL REVENUE SERVICE, P.O. BOX 21126, PHILADELPHIA, PA 19114

MD PERIODONTICS, A. MOSHREFI, DDS MS & N. DANESHMAND, 9735 WILSHIRE BLVD., SUITE 211,
BEVERLY HILLS, CA
90212

Park La Brea, 6200 W. Third Street, Los Angeles, CA 90036

SALLIE MAE, P.O. BOX 9533, WILKES-BARRE, PA 18773-9533

Sallie Mae Inc. on behalf of USA FUNDS, Attn: Bankruptcy Litigation Unit E3149, P.O. Box 9430, Wilkes-Barre, PA
18773-9430

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

August 2010

F.9013-3.1.PROOF.OF.SERVICE

Southwest Bankruptcy Conference

1 PETER C. ANDERSON
UNITED STATES TRUSTEE
2 JILL M. STURTEVANT (State Bar No. 089395)
ASSISTANT UNITED STATES TRUSTEE
3 HATTY YIP (State Bar No. 246487)
hatty.yip@usdoj.gov
4 TRIAL ATTORNEY
OFFICE OF THE UNITED STATES TRUSTEE
5 725 So. Figueroa Street, Suite 2600
Los Angeles, California 90017
6 (213) 894- 1507 telephone
(213) 894- 2603 facsimile
7

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re:) Case No. 2:11-bk-17831-AA
13)
14 **GENE DOUGLAS BALAS and CARLOS A.) REQUEST FOR JUDICIAL NOTICE IN**
MORALES,) SUPPORT OF UNITED STATES
15) **TRUSTEE'S NOTICE OF MOTION AND**
16 Debtor(s).) **MOTION TO DISMISS PURSUANT TO**
17) **11 U.S.C. § 1307(c) OR FOR RELATED**
18) **RELIEF**
19) Date: May 11, 2011
20) Time: 1:30 p.m.
21) Place: Courtroom 1345
22) 255 E. Temple St.
23) Los Angeles, CA 90012

24 Pursuant to Fed. R. Evid. 201, made applicable in this case pursuant to Fed. R. Bankr. P.
25 9017, Movant United States Trustee hereby requests that this Court take judicial notice of the
26 following schedules and statements from Debtors' pending bankruptcy case in connection with the
27 United States Trustee's NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO 11
28 U.S.C. § 1307(c) OR FOR RELATED RELIEF:


American Bankruptcy Institute

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- 1) The Case Docket for In re: Gene Douglas Balas and Carlos A. Morales, Case No. 2:11-bk-17831-AA; and
- 2) The voluntary chapter 7 bankruptcy petition, schedules and statements, and any amended schedules and statements, filed by the Debtors in In re: Gene Douglas Balas and Carlos A. Morales, Case No. 2:11-bk-17831-AA; and
- 3) Debtors' Application to Employ Klee, Tuchin, Bogdanoff & Stern LLP as Special Counsel on a Pro Bono Basis in Connection with Certain Specific Matters, and the exhibits attached thereto, filed on April 1, 2011, in In re: Gene Douglas Balas and Carlos A. Morales, Case No. 2:11-bk-17831 (docket item #21).

Respectfully submitted,
PETER C. ANDERSON
UNITED STATES TRUSTEE

DATED: April 15, 2011

By: 
HATTY YIP
Trial Attorney

Southwest Bankruptcy Conference

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EXHIBIT 1

EXHIBIT 1

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**U.S. Bankruptcy Court
Central District Of California (Los Angeles)
Bankruptcy Petition #: 2:11-bk-17831-AA**

Date filed: 02/24/2011

Assigned to: Alan M. Ahart
Chapter 13
Voluntary
Asset

Debtor

Gene Douglas Balas
5702 Lindenhurst Ave.
Los Angeles, CA 90036
SSN / ITIN: xxx-xx-0140

represented by **Peter M Lively**

The Law Offices of Peter M
Lively
11268 Washington Blvd Ste
203
Culver City, CA 90230-4647
310-391-2400
Fax : 310-391-2462
Email:
PeterMLively2000@yahoo.com

Robert J Pfister

Klee Tuchin Bogdanoff & Stern
LLP
1999 Ave of the Stars 39th Fl
Los Angeles, Ca 90067
310-407-4065
Fax : 310-407-9090
Email: rpfister@ktbslaw.com

Joint Debtor

Carlos A. Morales
5702 Lindenhurst Ave.
Los Angeles, CA 90036
SSN / ITIN: xxx-xx-8928

represented by **Peter M Lively**

(See above for address)

Robert J Pfister

(See above for address)

Trustee

Kathy A Dockery (TR)
700 S. Flower Street, Suite 1950
Los Angeles, CA 90017
(213) 996-4400

U.S. Trustee

United States Trustee (LA)
725 S Figueroa St., 26th Floor
Los Angeles, CA 90017

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Southwest Bankruptcy Conference

Filing Date	#	Docket Text
02/24/2011	<u>1</u>	Chapter 13 Voluntary Petition . Fee Amount \$274 Filed by Gene Douglas Balas, Carlos A. Morales Schedule A due 03/10/2011. Schedule B due 03/10/2011. Schedule C due 03/10/2011. Schedule D due 03/10/2011. Schedule E due 03/10/2011. Schedule F due 03/10/2011. Schedule G due 03/10/2011. Schedule H due 03/10/2011. Schedule I due 03/10/2011. Schedule J due 03/10/2011. Statement of Financial Affairs due 03/10/2011. Chapter 13 Plan due by 03/10/2011. Statement - Form 22C Due: 03/10/2011. Incomplete Filings due by 03/10/2011. (Lively, Peter) (Entered: 02/24/2011)
02/24/2011		Receipt of Voluntary Petition (Chapter 13)(2:11-bk-17831) [misc,volp13] (274.00) Filing Fee. Receipt number 18991243. Fee amount 274.00. (U.S. Treasury) (Entered: 02/24/2011)
02/24/2011	<u>2</u>	Statement of Social Security Number(s) Form B21 Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 02/24/2011)
02/24/2011	<u>3</u>	Certificate of Credit Counseling Filed by Debtor Gene Douglas Balas. (Lively, Peter) (Entered: 02/24/2011)
02/24/2011	<u>4</u>	Certificate of Credit Counseling Filed by Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 02/24/2011)
02/24/2011	<u>5</u>	Declaration Re: Electronic Filing Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 02/24/2011)
02/24/2011	<u>6</u>	Meeting of Creditors with 341(a) meeting to be held on 03/28/2011 at 03:30 PM at RM Redondo B, Sheraton LA Downtown Hotel, 711 South Hope St., Los Angeles, CA 90017. Confirmation hearing to be held on 05/12/2011 at 10:00 AM at Crtrm 1375, 255 E Temple St., Los Angeles, CA 90012. Proof of Claim due by 06/27/2011. (Lively, Peter) (Entered: 02/24/2011)
02/27/2011	<u>7</u>	BNC Certificate of Notice (RE: related document(s) <u>6</u> Meeting (AutoAssign Chapter 13)) No. of Notices: 17. Service Date 02/27/2011. (Admin.) (Entered: 02/27/2011)
02/27/2011	<u>8</u>	BNC Certificate of Notice (RE: related document(s) <u>1</u> Voluntary Petition (Chapter 13) filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales) No. of Notices: 1. Service Date 02/27/2011. (Admin.) (Entered: 02/27/2011)

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03/09/2011	<u>9</u>	Summary of Schedules , Statistical Summary of Certain Liabilities, Schedule A , Schedule B , Schedule C , Schedule D , Schedule E , Schedule F , Schedule G , Schedule H , Schedule I , Schedule J , Declaration concerning debtor's schedules , Statement of Financial Affairs , Chapter 13 Statement of Current Monthly and Disposable Income Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>10</u>	Declaration Re: Electronic Filing of Schedules and Statements Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>11</u>	Chapter 13 Plan with proof of service Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales (RE: related document(s) <u>1</u> Chapter 13 Voluntary Petition . Fee Amount \$274 Filed by Gene Douglas Balas, Carlos A. Morales Schedule A due 03/10/2011. Schedule B due 03/10/2011. Schedule C due 03/10/2011. Schedule D due 03/10/2011. Schedule E due 03/10/2011. Schedule F due 03/10/2011. Schedule G due 03/10/2011. Schedule H due 03/10/2011. Schedule I due 03/10/2011. Schedule J due 03/10/2011. Statement of Financial Affairs due 03/10/2011. Chapter 13 Plan due by 03/10/2011. Statement - Form 22C Due: 03/10/2011. Incomplete Filings due by 03/10/2011.). (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>12</u>	Debtor's notice of section 341(a) meeting and hearing on confirmation of chapter 13 plan with copy of chapter 13 plan with proof of service Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>13</u>	Declaration RE Tax Returns (Preconfirmation) Filed by Debtor Gene Douglas Balas. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>14</u>	Declaration RE: Payment of Domestic Support Obligations Filed by Debtor Gene Douglas Balas. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>15</u>	Declaration RE Tax Returns (Preconfirmation) Filed by Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>16</u>	Declaration RE: Payment of Domestic Support Obligations Filed by Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)
03/09/2011	<u>17</u>	Debtor's Certification of Employment Income Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales. (Lively, Peter) (Entered: 03/09/2011)

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03/18/2011	<u>18</u>	Notice of Hearing Filed by. (Dockery (TR), Kathy) (Entered: 03/18/2011)
03/30/2011	<u>19</u>	Objection to Confirmation of Chapter 13 Plan . (Dockery (TR), Kathy) (Entered: 03/30/2011)
03/30/2011	<u>20</u>	Request for courtesy Notice of Electronic Filing (NEF) Filed by M Jonathan Hayes on behalf of Courtesy NEF. (Hayes, M) (Entered: 03/30/2011)
04/01/2011	<u>21</u>	Application to Employ Klee, Tuchin, Bogdanoff & Stern LLP as Special Counsel <i>to the Debtors on a Pro Bono Basis in Connection with Certain Specified Matters</i> Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales (Attachments: # <u>1</u> Exhibit A - License & Certificate of Marriage# <u>2</u> Exhibit B - Feb. 23, 2011 Letter from Attorney General to Speaker# <u>3</u> Exhibit C - KTB&S Bios) (Pfister, Robert) (Entered: 04/01/2011)
04/01/2011	<u>22</u>	Notice of motion/application <i>pursuant to LBR 9013-1(o)</i> Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales (RE: related document(s) <u>21</u> Application to Employ Klee, Tuchin, Bogdanoff & Stern LLP as Special Counsel <i>to the Debtors on a Pro Bono Basis in Connection with Certain Specified Matters</i> Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales). (Pfister, Robert) (Entered: 04/01/2011)
04/01/2011	<u>23</u>	Proof of service Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales (RE: related document(s) <u>21</u> Application to Employ Klee, Tuchin, Bogdanoff & Stern LLP as Special Counsel <i>to the Debtors on a Pro Bono Basis in Connection with Certain Specified Matters</i> , <u>22</u> Notice of motion/application). (Pfister, Robert) (Entered: 04/01/2011)
04/12/2011	<u>24</u>	Notice of Hearing Filed by. (Dockery (TR), Kathy) (Entered: 04/12/2011)
04/14/2011	<u>25</u>	Declaration re: <i>Response to Objections to Plan Confirmation by the Standing Chapter 13 Trustee with proof of service</i> Filed by Debtor Gene Douglas Balas, Joint Debtor Carlos A. Morales (RE: related document(s) <u>19</u> Trustee's Objection to Confirmation of Plan (batch)). (Lively, Peter) (Entered: 04/14/2011)

PACER Service Center

American Bankruptcy Institute

Transaction Receipt			
04/15/2011 13:21:41			
PACER Login:	us7746	Client Code:	
Description:	Docket Report	Search Criteria:	2:11-bk-17831-AA Fil or Ent: filed From: 1/14/2011 To: 4/15/2011 Doc From: 0 Doc To: 99999999 Term: included Format: html
Billable Pages:	3	Cost:	0.24

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EXHIBIT 2

EXHIBIT 2

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Form B1 (Official Form 1106) Case 2:11-bk-17831-AA Doc 1 Filed 02/24/11 Entered 02/24/11 15:51:01 Page 1 of 1 United States Bankruptcy Court Central District of California

United States Bankruptcy Court Central District of California		Page 1 of 20	Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle): Balas, Gene, Douglas		Name of Joint Debtor (Spouse) (Last, First, Middle): Morales, Carlos, A.	
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):		All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):	
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all): XXXX-0140		Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all): XXXX-8928	
Street Address of Debtor (No. & Street, City, and State): 5702 Lindenhurst Ave. Los Angeles, CA ZIP CODE 90036		Street Address of Joint Debtor (No. & Street, City, and State): 5702 Lindenhurst Ave. Los Angeles, CA ZIP CODE 90036	
County of Residence or of the Principal Place of Business: Los Angeles		County of Residence or of the Principal Place of Business: Los Angeles	
Mailing Address of Debtor (if different from street address): ZIP CODE		Mailing Address of Joint Debtor (if different from street address): ZIP CODE	
Location of Principal Assets of Business Debtor (if different from street address above): ZIP CODE			
Type of Debtor (Form of Organization) (Check one box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)		Nature of Business (Check one box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other Tax-Exempt Entity (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code.)	
		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input checked="" type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding	
		Nature of Debts (Check one box) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input type="checkbox"/> Debts are primarily business debts.	
Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b) See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter). Check all applicable boxes <input type="checkbox"/> A plan is being filed with this petition <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).	
Statistical/Administrative Information <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.			THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors 1-49 50-99 100-199 200-999 1,000-5,000 5,001-10,000 10,001-25,000 25,001-50,000 50,001-100,000 Over 100,000 <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Estimated Assets \$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million \$1,000,001 to \$10 million \$10,000,001 to \$50 million \$50,000,001 to \$100 million \$100,000,001 to \$500 million \$500,000,001 to \$1 billion More than \$1 billion <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Estimated Liabilities \$0 to \$50,000 \$50,001 to \$100,000 \$100,001 to \$500,000 \$500,001 to \$1 million \$1,000,001 to \$10 million \$10,000,001 to \$50 million \$50,000,001 to \$100 million \$100,000,001 to \$500 million \$500,000,001 to \$1 billion More than \$1 billion <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			

Southwest Bankruptcy Conference

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Official Form 1- Exhibit D (Rev. 12/09) page 1

2009 USBC, Central District of California

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re Gene Douglas Balas Carlos A. Morales	Debtors. CHAPTER: 13 CASE NO.:

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 14 days after your bankruptcy case is filed.*

3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Summarize exigent circumstances here.]*

If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy of any debt management plan developed through the agency. Failure to fulfill these requirements may result in dismissal of your case. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. Your case may also be dismissed if the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing.

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Official Form 1- Exhibit D (Rev. 12/09) page 2 2009 USBC, Central District of California

4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*
- Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);
 - Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);
 - Active military duty in a military combat zone.
5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/, Gene Douglas Balas

Date: 2/24/2011

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Certificate Number: 01267-CAC-CC-013970669



01267-CAC-CC-013970669

CERTIFICATE OF COUNSELING

I CERTIFY that on February 23, 2011, at 2:42 o'clock PM CST, Gene D Balas received from Money Management International, Inc., an agency approved pursuant to 11 U.S.C. § 111 to provide credit counseling in the Central District of California, an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111.

A debt repayment plan was not prepared. If a debt repayment plan was prepared, a copy of the debt repayment plan is attached to this certificate.

This counseling session was conducted by internet and telephone.

Date: February 23, 2011 By: /s/Roger Redding

Name: Roger Redding

Title: Counselor

* Individuals who wish to file a bankruptcy case under title 11 of the United States Bankruptcy Code are required to file with the United States Bankruptcy Court a completed certificate of counseling from the nonprofit budget and credit counseling agency that provided the individual the counseling services and a copy of the debt repayment plan, if any, developed through the credit counseling agency. See 11 U.S.C. §§ 109(h) and 521(b).

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Official Form 1 - Exhibit D (Rev. 12/09) page 1

2009 USBC, Central District of California

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

Table with 2 columns: Debtor information (Gene Douglas Balas, Carlos A. Morales) and Case information (CHAPTER: 13, CASE NO.:)

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me.

2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me.

3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the seven days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now.

If your certification is satisfactory to the court, you must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy petition and promptly file a certificate from the agency that provided the counseling, together with a copy of any debt management plan developed through the agency.

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2009 USBC, Central District of California

4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

Active military duty in a military combat zone.

5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. ' 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/, Carlos A. Morales

Date: 2/24/2011

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Certificate Number: 01267-CAC-CC-013977056



01267-CAC-CC-013977056

CERTIFICATE OF COUNSELING

I CERTIFY that on February 23, 2011, at 10:40 o'clock PM CST, Carlos A Morales received from Money Management International, Inc., an agency approved pursuant to 11 U.S.C. § 111 to provide credit counseling in the Central District of California, an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111.

A debt repayment plan was not prepared. If a debt repayment plan was prepared, a copy of the debt repayment plan is attached to this certificate.

This counseling session was conducted by internet and telephone.

Date: February 23, 2011 By: /s/Jesse Perez

Name: Jesse Perez

Title: Counselor 1

* Individuals who wish to file a bankruptcy case under title 11 of the United States Bankruptcy Code are required to file with the United States Bankruptcy Court a completed certificate of counseling from the nonprofit budget and credit counseling agency that provided the individual the counseling services and a copy of the debt repayment plan, if any, developed through the credit counseling agency. See 11 U.S.C. §§ 109(h) and 521(b).

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STATEMENT OF RELATED CASES
INFORMATION REQUIRED BY LOCAL BANKRUPTCY RULE 1015-2
UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF CALIFORNIA

1. A petition under the Bankruptcy Act of 1898 or the Bankruptcy Reform Act of 1978 has previously been filed by or against the debtor, his/her spouse, his or her current or former domestic partner, an affiliate of the debtor, any copartnership or joint venture of which debtor is or formerly was a general or limited partner, or member, or any corporation of which the debtor is a director, officer, or person in control, as follows: (Set forth the complete number and title of each such of prior proceeding, date filed, nature thereof, the Bankruptcy Judge and court to whom assigned, whether still pending and, if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceeding(s).)

Chapter 7 Bankruptcy filed in Brooklyn, New York in or about 1993.

2. (If petitioner is a partnership or joint venture) A petition under the Bankruptcy Act of 1898 or the Bankruptcy Reform Act of 1978 has previously been filed by or against the debtor or an affiliate of the debtor, or a general partner in the debtor, a relative of the general partner, general partner of, or person in control of the debtor, partnership in which the debtor is a general partner, general partner of the debtor, or person in control of the debtor as follows: (Set forth the complete number and title of each such prior proceeding, date filed, nature of the proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending and, if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceeding(s).)

N/A

3. (If petitioner is a corporation) A petition under the Bankruptcy Act of 1898 or the Bankruptcy Reform Act of 1978 has previously been filed by or against the debtor, or any of its affiliates or subsidiaries, a director of the debtor, an officer of the debtor, a person in control of the debtor, a partnership in which the debtor is general partner, a general partner of the debtor, a relative of the general partner, director, officer, or person in control of the debtor, or any persons, firms or corporations owning 20% or more of its voting stock as follows: (Set forth the complete number and title of each such prior proceeding, date filed, nature of proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending, and if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceeding(s).)

N/A

4. (If petitioner is an individual) A petition under the Bankruptcy Reform Act of 1978, including amendments thereof, has been filed by or against the debtor within the last 180 days: (Set forth the complete number and title of each such prior proceeding, date filed, nature of proceeding, the Bankruptcy Judge and court to whom assigned, whether still pending, and if not, the disposition thereof. If none, so indicate. Also, list any real property included in Schedule A that was filed with any such prior proceeding(s).)

See No. 1 Above

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed at Culver City, California. /s/ Gene Douglas Balas Debtor

Dated 2/24/2011 /s/ Carlos A. Morales Joint Debtor

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B 201 - Notice of Available Chapters (Rev. 12/08)

USBC, Central District of California

Name: Peter M. Lively, Esq
Address: Law Office of Peter M. Lively
11268 Washington Blvd., Suite 203
Culver City, California 90230

Telephone: (310) 391-2400 Fax: (310) 391-2462

- Attorney for Debtor
Debtor In Pro Per

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
List all names including trade names, used by Debtor(s) within last 8 years:
Gene Douglas Balas
Carlos A. Morales
Case No.:
NOTICE OF AVAILABLE CHAPTERS
(Notice to Individual Consumer Debtor Under § 342(b) of the Bankruptcy Code)

In accordance with § 342(b) of the Bankruptcy Code, this notice to individuals with primarily consumer debts: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case.

You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

Notices from the bankruptcy court are sent to the mailing address you list on your bankruptcy petition. In order to ensure that you receive information about events concerning your case, Bankruptcy Rule 4002 requires that you notify the court of any changes in your address. If you are filing a joint case (a single bankruptcy case for two individuals married to each other), and each spouse lists the same mailing address on the bankruptcy petition, you and your spouse will generally receive a single copy of each notice mailed from the bankruptcy court in a jointly-addressed envelope, unless you file a statement with the court requesting that each spouse receive a separate copy of all notices.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies. Each debtor in a joint case must complete the briefing.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses. Each debtor in a joint case must complete the course.

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B 201 - Notice of Available Chapters (Rev. 12/08)

USBC, Central District of California

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation (\$245 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total fee \$299)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.
2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.
3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.
4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$39 administrative fee: Total fee \$274)

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.
2. Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.
3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

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B 201 - Notice of Available Chapters (Rev. 12/08)

USBC, Central District of California

Certificate of Attorney

I hereby certify that I delivered to the debtor this notice required by § 342(b) of the Bankruptcy Code.

Peter M. Lively, Esq _____ **/s/, Peter M. Lively** _____ **2/24/2011** _____
Printed Name of Attorney Signature of Attorney Date

Address:

Law Office of Peter M. Lively
11268 Washington Blvd., Suite 203
Culver City, California 90230

(310) 391-2400 _____

Certificate of the Debtor

I (We), the debtor(s), affirm that I (we) have received and read this notice.

Gene Douglas Balas _____ **X/s/, Gene Douglas Balas** _____ **2/24/2011** _____
Carlos A. Morales _____ **Gene Douglas Balas** _____
Printed Name(s) of Debtor(s) Signature of Debtor Date
Case No. (if known) _____ **X/s/, Carlos A. Morales** _____ **2/24/2011** _____
Carlos A. Morales _____
Signature of Joint Debtor Date

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Form B203- Disclosure of Compensation of Attorney for Debtor- (1/88)

1998 USBC, Central District of California

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re Gene Douglas Balas Carlos A. Morales Debtors.	Case No.: <div style="text-align: center;">DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR</div>

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor(s) and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept	\$ <u>Hourly \$425.00</u>
Prior to the filing of this statement I have received	\$ <u>4,644.00</u>
Balance Due	\$ <u>Hourly \$425.00</u>

2. The source of compensation paid to me was:

Debtor Other (specify)

3. The source of compensation to be paid to me is:

Debtor Other (specify)

4. I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation, is attached.

5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a) Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
- b) Preparation and filing of any petition, schedules, statement of affairs, and plan which may be required;
- c) Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
- d) [Other provisions as needed]

None

6. By agreement with the debtor(s) the above disclosed fee does not include the following services:

Adversary Proceedings

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Form B203- Disclosure of Compensation of Attorney for Debtor- (1/88)

1998 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.:	(If known)
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CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

2/24/2011
Date

/s/, Peter M. Lively
Signature of Attorney

Law Office of Peter M. Lively
Name of Law Firm

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Verification of Creditor Mailing List - (Rev. 10/05)

2003 USBC, Central District of California

MASTER MAILING LIST

Verification Pursuant to Local Bankruptcy Rule 1007-2(d)

Name Peter M. Lively, Esq
Address Law Office of Peter M. Lively
11268 Washington Blvd., Suite 203
Culver City, California 90230
Telephone (310) 391-2400

- Attorney for Debtor(s)
 Debtor In Pro Per

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
List all names including trade names, used by Debtor(s) within last 8 years: Gene Douglas Balas Carlos A. Morales	Case No.:
	Chapter: 13

VERIFICATION OF CREDITOR MAILING LIST

The above named debtor(s), or debtor's attorney if applicable, do hereby certify under penalty of perjury that the attached Master Mailing List of creditors, consisting of 4 sheet(s) is complete, correct, and consistent with the debtor's schedules pursuant to Local Rule 1007-2(d) and I/we assume all responsibility for errors and omissions.

Date: 2/24/2011 /s/, Gene Douglas Balas
Gene Douglas Balas, Debtor

/s/, Peter M. Lively /s/, Carlos A. Morales
Peter M. Lively, Esq, Attorney (if applicable) Carlos A. Morales, Joint Debtor

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GENE DOUGLAS BALAS
5702 LINDENHURST AVE.
LOS ANGELES, CA 90036

CARLOS A. MORALES
5702 LINDENHURST AVE.
LOS ANGELES, CA 90036

PETER M. LIVELY, ESQ
LAW OFFICE OF PETER M. LIVELY
11268 WASHINGTON BLVD., SUITE 203
CULVER CITY, CALIFORNIA 90230

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ACURA FINANCIAL SERVICES
P.O. BOX 600001
CITY OF INDUSTRY, CA 91716

BANK OF AMERICA
P.O. BOX 15026
WILMINGTON, DE 19850

BANK OF AMERICA
P.O. BOX 15026
WILMINGTON, DE 19850

BANK OF AMERICA
P.O. BOX 15026
WILMINGTON, DE 19850

BMW FINANCIAL SERVICES
P.O. BOX 3608
DUBLIN, OH 43016-0306

BMW FINANCIAL SERVICES
C/O VITAL RECOVERY SERVICES, INC.
P.O. BOX 923748
NORCROSS, GA 30010

CAPITAL ONE BANK
P.O. BOX 30285
SALT LAKE CITY, UT 84130

CARLOS MORALES

CEDARS-SINAI
P.O. BOX 512480
LOS ANGELES, CA 90051

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CEDARS-SINAI
P.O. BOX 60109
LOS ANGELES, CA 90060

CHASE
P.O. BOX 15298
WILMINGTON, DE 19850

CHASE
P.O. BOX 15298
WILMINGTON, DE 19850

CHEVRON CREDIT BANK
P.O. BOX 5010
CONCORD, CA 94524

CITIBANK
P.O. BOX 26892
SAN FRANCISCO, CA 94126

CONSULTANTS FOR PATHOLOGY
4607 LAKEVIEW CANYON RD., SUITE 598
WESTLAKE VILLAGE, CA 91361

FRANCHISE TAX BOARD
ATTENTION: BANKRUPTCY
P.O. BOX 2952
SACRAMENTO, CA 95812

HSBC CARD SERVICES
C/O HUNT & HENRIQUES
151 BERNAL ROAD, SUITE 8
SAN JOSE, CA 95119

HSBC CARD SERVICES
HUNT & HENRIQUES
151 BERNAL ROAD, SUITE 8
SAN JOSE, CA 95119

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HSBC CARD SERVICES
P.O. BOX 81622
SALINAS, CA 93912

HSBC CARD SERVICES
C/O NCO FINANCIAL SYSTEMS
P.O. BOX 15372
WILMINGTON, DE 19850

INTERNAL REVENUE SERVICE
P.O. BOX 21126
PHILADELPHIA, PA 19114

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATION
P.O. BOX 7346
PHILADELPHIA, PA 19101-7346

MD PERIODONTICS
A. MOSHREFI, DDS MS & N. DANESHMAND
9735 WILSHIRE BLVD., SUITE 211
BEVERLY HILLS, CA 90212

PARK LA BREA
6200 W. THIRD STREET
LOS ANGELES, CA 90036

SALLIE MAE
P.O. BOX 9533
WILKES-BARRE, PA 187773-9533

American Bankruptcy Institute

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United States Bankruptcy Court Central District Of California	
In re: Gene Douglas Balas Carlos A. Morales	CHAPTER NO.: 13
	CASE NO.: 2:11-bk-17831-AA

**ORDER TO COMPLY WITH BANKRUPTCY RULE 1007 and 3015(b)
AND NOTICE OF INTENT TO DISMISS CASE**

To Debtor and Debtor's Attorney of Record,

YOU FAILED TO FILE THE FOLLOWING DOCUMENTS:

- Schedule B**
- Schedule C**
- Schedule D**
- Schedule E**
- Schedule F**
- Schedule A**
- Schedule G**
- Statement – Form 22C**
- Schedule H**
- Schedule I**
- Schedule J**
- Stmt. of Fin. Affairs**
- Chapter 13 Plan**

Even if the indicated documents are not applicable to your particular situation, they must still be filed with the notation 'None' marked thereon.

According to Bankruptcy Rules 1007(c) and 3015(b), within 14 days after you filed the petition, **YOU MUST EITHER:**

- (1) File the required documents. If the document is filed electronically, no hard copy need to be submitted to the court. (See Local Bankruptcy Rule 5005-2(d) and Court Manual, Appendix "F" as to whether a copy must be served on the judge.)

OR

- (2) File and serve a motion for an order extending the time to file the required document(s). If you make such a motion and it is denied after the 14 days have expired, your case will be dismissed.

IF YOU DO NOT COMPLY in a timely manner with either of the above alternatives, the court **WILL DISMISS YOUR CASE WITHOUT FURTHER NOTICE.**

BY ORDER OF THE COURT

KATHLEEN J. CAMPBELL, CLERK OF COURT

Dated: February 24, 2011

By: Terry Goins
Deputy Clerk

Southwest Bankruptcy Conference

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Form B6 - Summary (12/07)

2007 USBC, Central District of California

United States Bankruptcy Court Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA (if known)
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SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors also must complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

	NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A -	Real Property	YES	1	\$ 0.00		
B -	Personal Property	YES	3	\$ 33,273.47		
C -	Property Claimed as Exempt	YES	1			
D -	Creditors Holding Secured Claims	YES	1		\$ 0.00	
E -	Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	YES	3		\$ 47,036.75	
F -	Creditors Holding Unsecured Nonpriority Claims	YES	6		\$ 133,708.53	
G -	Executory Contracts and Unexpired Leases	YES	1			
H -	Codebtors	YES	1			
I -	Current Income of Individual Debtor(s)	YES	2			\$ 7,854.23
J -	Current Expenditures of Individual Debtor(s)	YES	1			\$ 7,339.75
TOTAL			20	\$ 33,273.47	\$ 180,745.28	

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Official Form B6 - Statistical Summary (12/07) 2007 USBC, Central District of California

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re Gene Douglas Balas Carlos A. Morales Debtor(s).	CHAPTER: 13 CASE NO.: 2:11-bk-17831-AA

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	\$ 0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E)	\$ 47,036.75
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E) (whether disputed or undisputed)	\$ 0.00
Student Loan Obligations (from Schedule F)	\$ 0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E.	\$ 0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	\$ 0.00
TOTAL	\$ 47,036.75

State the following:

Average Income (from Schedule I, Line 16)	\$ 7,854.23
Average Expenses (from Schedule J, Line 18)	\$ 7,339.75
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	\$ 10,192.05

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column	\$ 0.00
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column.	\$ 47,036.75
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column	\$ 0.00
4. Total from Schedule F	\$ 133,708.53
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)	\$ 133,708.53

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Form B6A - (12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE A - REAL PROPERTY

DESCRIPTION AND LOCATION OF PROPERTY	NATURE OF DEBTOR'S INTEREST IN PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION	AMOUNT OF SECURED CLAIM
None			\$ 0.00	\$ 0.00
Total >			\$ 0.00	

(Report also on Summary of Schedules.)

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Form B6B - (12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE B - PERSONAL PROPERTY

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1Cash on hand		Cash on Hand	C	30.00
2Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Certified Management Account No. XXXX-4X72 (Merrill Lynch) (estimated balance)	C	0.00
Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Citibank Joint Checking Account No. XXXX-1230 (estimated balance)	C	500.00
3Security deposits with public utilities, telephone companies, landlords, and others.		Security deposit with landlord on 06/01/2006	C	1,000.00
4Household goods and furnishings, including audio, video, and computer equipment.		Household Goods	C	2,500.00
5Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6Wearing apparel.		Wearing Apparel	C	200.00
7Furs and jewelry.	X			
8Firearms and sports, photographic, and other hobby equipment.	X			
9Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Term Life Insurance Policy No. XXXX-5963 (MetLife)	C	0.00
Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Universal Life Insurance Policy No. XXXX-7814 (Thrivent Financial for Lutherans) * Loan value exhausted	C	0.00
10Annuities. Itemize and name each issuer.	X			
11Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			
12Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		401(k) Retirement Savings Plan (Joint Debtor)	C	26,973.47

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Form B6B - (12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE B - PERSONAL PROPERTY

(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
12 Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		Retirement Account No. XXXX-5J06 (Merrill Lynch) (estimated balance)	C	75.00
13 Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14 Interests in partnerships or joint ventures. Itemize.	X			
15 Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16 Accounts receivable.	X			
17 Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18 Other liquidated debts owed to debtor including tax refunds. Give particulars.		2010 Federal Income Tax Refund (Joint Debtor)	C	1,909.00
Other liquidated debts owed to debtor including tax refunds. Give particulars.		2010 State of California Income Tax Refund	C	86.00
19 Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20 Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21 Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
22 Patents, copyrights, and other intellectual property. Give particulars.	X			
23 Licenses, franchises, and other general intangibles. Give particulars.	X			
24 Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25 Automobiles, trucks, trailers, and other vehicles and accessories.		2010 Ford Fusion SE Sedan 4D; 17k miles (Purchase Agreement) * Vehicle in Mother's name but Debtor holds and makes payments directly to lender (Amount of Claim \$15,000.00)	C	0.00

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Form B6B - (12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE B - PERSONAL PROPERTY

(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
26 Boats, motors, and accessories.	X			
27 Aircraft and accessories.	X			
28 Office equipment, furnishings, and supplies.	X			
29 Machinery, fixtures, equipment and supplies used in business.	X			
30 Inventory.	X			
31 Animals.	X			
32 Crops - growing or harvested. Give particulars.	X			
33 Farming equipment and implements.	X			
34 Farm supplies, chemicals, and feed.	X			
35 Other personal property of any kind not already listed. Itemize.	X			
<u>2</u> continuation sheets attached				\$ 33,273.47

(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

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Form B6C - (4/10)

2010 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Case No.: 2:11-bk-17831-AA (If known)
Debtors.	

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:
(Check one box)

Check if debtor claims a homestead exemption that exceeds
\$146,450.*

- 11 U.S.C. § 522(b)(2)
 11 U.S.C. § 522(b)(3)

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTION
2010 Federal Income Tax Refund (Joint Debtor)	C.C.P. § 703.140(b)(5) or 100% of fair market value	1,909.00	1,909.00
401(k) Retirement Savings Plan (Joint Debtor)	11 USC § 522(b)(2)(c)	0.00	26,973.47
	C.C.P. § 703.140(b)(10)(E) or 100% of fair market value	26,973.47	
Cash on Hand	C.C.P. § 703.140(b)(5) or 100% of fair market value	30.00	30.00
Citibank Joint Checking Account No. XXXX-1230 (estimated balance)	C.C.P. § 703.140(b)(5) or 100% of fair market value	500.00	500.00
Household Goods	C.C.P. § 703.140(b)(3) or 100% of fair market value	2,500.00	2,500.00
Retirement Account No. XXXX-5J06 (Merrill Lynch) (estimated balance)	C.C.P. § 703.140(b)(5) or 100% of fair market value	75.00	75.00
Security deposit with landlord on 06/01/2006	C.C.P. § 703.140(b)(5) or 100% of fair market value	1,000.00	1,000.00
Wearing Apparel	C.C.P. § 703.140(b)(3) or 100% of fair market value	200.00	200.00

* Amount subject to adjustment on 4/1/13 and every three years thereafter with respect to cases commenced on or after the date of adjustment.

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Form B6D - (12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors.	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE AND AN ACCOUNT NUMBER <i>(See Instructions Above)</i>	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT			AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
			UNLIQUIDATED	DISPUTED			
Last four digits of ACCOUNT NO.		Value _____					

0 continuation sheets attached

Subtotal (Total of this page)	>	\$	0.00	\$	0.00
Total (Use only on last page)	>	\$	0.00	\$	0.00

(Report total also on Summary of Schedules)

(If applicable, report also on Statistical Summary of Certain Liabilities and Related Data.)

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Form B6E- (Rev. 04/10)

2010 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales <div style="text-align: right; font-size: small;">Debtors.</div>	Case No.: 2:11-bk-17831-AA (If known)
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SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets.)

- Domestic Support Obligations:** Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).
- Extensions of credit in an involuntary case:** Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).
- Wages, salaries, and commissions:** Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$11,725* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).
- Contributions to employee benefit plans:** Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).
- Certain farmers and fishermen:** Claims of certain farmers and fishermen, up to \$5,775* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).
- Deposits by individuals:** Claims of individuals up to \$2,600* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).
- Taxes and Certain Other Debts Owed to Governmental Units:** Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).
- Commitments to Maintain the Capital of an Insured Depository Institution:** Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507 (a)(9).
- Claims for Death or Personal Injury While Debtor Was Intoxicated:** Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amount subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

2 continuation sheets attached

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Form B6E- (Rev. 04/10)

2010 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales <div style="text-align: right; font-size: small;">Debtors</div>	Case No.: 2:11-bk-17831-AA (If known)
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SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet)

Taxes and Certain Other Debts Owed to Governmental Units

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <i>(See instructions above.)</i>	CODEBTOR	HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
Last four digits of ACCOUNT NO. XXXX-0140 Franchise Tax Board Attention: Bankruptcy P.O. Box 2952 Sacramento, CA 95812		C	04/16/2009 State of California Income Tax Liability for 2008 (Joint Return Filed) * Claim amount taken from return and estimated at 25% penalty and interest				1,091.25	1,091.25	\$0.00
Last four digits of ACCOUNT NO. XXXX-0140 Franchise Tax Board Attention: Bankruptcy P.O. Box 2952 Sacramento, CA 95812		C	04/16/2010 State of California Income Tax Liability for 2009 (Joint Return Filed) * Claim amount taken from return and estimated at 25% penalty and interest				7,403.75	7,403.75	\$0.00
Last four digits of ACCOUNT NO. XXXX-8928 Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346 Philadelphia, PA 19101-7346		C	04/16/2011 Federal Income Tax Liability for 2010 (Joint Debtor) * Claim amount taken from return and estimated at 10% penalty and interest				1,008.70	1,008.70	\$0.00

Sheet no. 1 of 2 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

Subtotals >
(Totals of this page)

\$ 9,503.70	\$ 9,503.70	\$ 0.00
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Total >

(Use only on last page of the completed
Schedule E. Report also on the Summary of
Schedules.)

\$		
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Total >

(Use only on last page of the completed
Schedule E. If applicable, report also on the
Statistical Summary of Certain Liabilities
and Related Data.)

	\$	\$
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Form B6E - (Rev. 04/10)

2010 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales <div style="text-align: right; font-size: small;">Debtors</div>	Case No.: 2:11-bk-17831-AA (If known)
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SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet)

Taxes and Certain Other Debts Owed to Governmental Units

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <i>(See instructions above.)</i>	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
Last four digits of ACCOUNT NO. XXXX-0140 Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346 Philadelphia, PA 19101-7346	C	04/16/2011 Federal Income Tax Liability for 2010 (Debtor) * Claim amount taken from return and estimated at 10% penalty and interest				10,299.30	10,299.30	\$0.00
Last four digits of ACCOUNT NO. XXXX-0140 Internal Revenue Service Centralized Insolvency Operation P.O. Box 7346 Philadelphia, PA 19101-7346	C	04/16/2010 Federal Income Tax Liability for 2009 (Debtor) * Claim amount taken from return and estimated at 25% penalty and interest				27,233.75	27,233.75	\$0.00

Sheet no. 2 of 2 continuation sheets attached to Schedule of Creditors Holding Priority Claims

Subtotals >
(Totals of this page)

	\$ 37,533.05	\$ 37,533.05	\$ 0.00
Total > <small>(Use only on last page of the completed Schedule E. Report also on the Summary of Schedules.)</small>	\$ 47,036.75		
Total > <small>(Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)</small>		\$ 47,036.75	\$ 0.00

American Bankruptcy Institute

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Form B6F (Official Form 6F) - (Rev. 12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Debtors:	Case No.: 2:11-bk-17831-AA	(If known)
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SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <i>(See instructions above.)</i>	CODEBTOR	HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Last four digits of ACCOUNT NO. XXXX-7433 Acura Financial Services P.O. Box 600001 City of Industry, CA 91716	C		Deficiency balance on a 2006 Acura TL 3.2 Sedan 4D				2,901.02
Last four digits of ACCOUNT NO. XXXX-7485 Bank of America P.O. Box 15026 Wilmington, DE 19850	C		Credit Card				12,855.00
Last four digits of ACCOUNT NO. XXXX-2247 Bank of America P.O. Box 15026 Wilmington, DE 19850	C		Credit Card 09/2007 - 05/2010				10,000.00
Last four digits of ACCOUNT NO. XXXX-8397 Bank of America P.O. Box 15026 Wilmington, DE 19850	C		Credit Card 09/2007 - 04/2010				7,709.53

5 Continuation sheets attached

Subtotal >	\$	33,465.55
Total >	\$	

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable on the
Statistical Summary of Certain Liabilities and Related Data.)

Southwest Bankruptcy Conference

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Form B6F (Official Form 6F) - (Rev. 12/07)

2007 USBC, Central District of California

In re Gene Douglas Balas Carlos A. Morales	Case No.: Debtors: 2:11-bk-17831-AA (If known)
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SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <i>(See instructions above.)</i>	CODEBITOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Last four digits of ACCOUNT NO. XXXX-7452 BMW Financial Services P.O. Box 3608 Dublin, OH 43016-0306 BMW Financial Services c/o Vital Recovery Services, Inc. P.O. Box 923748 Norcross, GA 30010	C	Deficiency balance on a 2006 BMW 3 Series 330Ci Convertible 2D				1,474.88
Last four digits of ACCOUNT NO. XXXX-5228 Capital One Bank P.O. Box 30285 Salt Lake City, UT 84130	C	Credit Card				3,481.00
Last four digits of ACCOUNT NO. XXXX-8600 Capital One Bank P.O. Box 30285 Salt Lake City, UT 84130	C	Credit Card 04/2002 - 04/2010				12,217.05
Last four digits of ACCOUNT NO. XXXX-6610 Cedars Sinai P.O. Box 512480 Los Angeles, CA 90051 Cedars Sinai c/o Designed Receivable Solutions 1 Centerpointe Drive, Suite 450 La Palma, CA 90623	C	04/20/2010 Medical Services				70.83

Sheet no. 1 of 5 continuation sheets attached to Schedule of Creditors
Holding Unsecured
Nonpriority Claims

Subtotal >	\$ 17,243.76
Total >	\$

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable on the
Statistical Summary of Certain Liabilities and Related Data.)

American Bankruptcy Institute

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Form B6F (Official Form 6F) - (Rev. 12/07) 2007 USBC, Central District of California

In re	Gene Douglas Balas Carlos A. Morales	Case No.:	2:11-bk-17831-AA	(If known)
		Debtors.		

SCHEDULE F - CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER <i>(See instructions above.)</i>	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
Last four digits of ACCOUNT NO. XXXX-7591 Cedars-Sinai P.O. Box 60109 Los Angeles, CA 90060	C	Medical Services				260.15
Last four digits of ACCOUNT NO. XXXX-2489 Cedars-Sinai P.O. Box 512480 Los Angeles, CA 90051	C	Medical Services				365.96
Last four digits of ACCOUNT NO. XXXX-9664 Chase P.O. Box 15298 Wilmington, DE 19850 Chase c/o Redline Recovery 11675 Rainwater Dr., #350 Alpharetta, GA 30009 Equable Ascent Financial c/o Redline Recovery 11675 Rainwater Dr., #350 Alpharetta, GA 30009	C	Credit Card				2,060.11

Sheet no. 2 of 5 continuation sheets attached to Schedule of Creditors
Holding Unsecured
Nonpriority Claims

Subtotal >	\$ 2,686.22
Total >	\$

*(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable on the
Statistical Summary of Certain Liabilities and Related Data.)*