

1
2
3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
6
7

8 In re:)
9) Case No. 06-23675-B-13J
10 LENORE LENA ASHTON,)
11) Docket Control No. GW-3
12 Debtor(s).) Date: December 19, 2006
Time: 9:30 a.m.

13 On or after the calendar set forth above, the court issued
14 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of
16 the court's decision under the E-Government Act of 2002 (the
"Act"), a copy of the ruling is hereby posted on the court's
17 Internet site, www.caeb.uscourts.gov, in a text-searchable
18 format, as required by the Act. However, this posting does not
constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 The motion is denied. The debtor has failed to carry her
21 burden of establishing the requirements of 11 U.S.C. §
22 1325(a)(1). The plan provides in Section 7.02: "Section 331 of
23 the Bankruptcy Code allows Debtor's attorney to apply for
24 compensation every 120 days, or sooner if the court permits. In
25 the event that attorney's fees and costs accrue in the amount of
26 \$1,000.00, or more, after the date of the filing of the last
27 motion for approval of fees, attorney may file a motion for
28 approval of fees as early as 30 days after the date fo the filing

1 of the last motion for approval of fees."

2 Counsel, through the debtor's plan has essentially
3 effectuated a shortening of the statutory limit without an
4 adequate showing of cause. That counsel's fees may accrue to
5 exceed \$1,000, four hours work at counsel's \$250 hourly rate, is
6 not cause to shorten the time. Reducing the time between fee
7 applications as a regular practice is inappropriate. The time
8 should be reduced in "rare" circumstances only. U.S. Trustee v.
9 Knudsen Corporation (In re Knudsen Corporation), 84 B.R. 668 (9th
10 Cir. BAP 1988). Because the plan incorporates a term violating
11 Section 331, the plan fails to comply with Section 1325(a)(1).

12 Plan confirmation can be denied for failing to satisfy one
13 or more of the prerequisites of 11 U.S.C. § 1325. In re Padilla,
14 213 B.R. 349, 352 (9th Cir. BAP 1997); Keith M. Lundin, Chapter
15 13 Bankruptcy, 3d. Ed. § 217.1 (2000 & Supp. 2004).