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Attorney for Debtors

U.S. COURTS  
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REC'D \_\_\_\_\_ FILED \_\_\_\_\_  
CAMERON S. BURKE,  
CLERK, IDAHO

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF IDAHO

**In Re:** )  
**JAMES L. HERSHBERGER** )  
**MELISSA R. HERSHBERGER** )  
 )  
Debtors )

**Case No. 01-00317**  
**EX PARTE MOTION TO**  
**MODIFY CHAPTER 13 PLAN**

COMES NOW THE DEBTORS by and through their attorney, Stephen W. French, and move this Court exparte for an Order modifying their chapter 13 Plan. The Debtors income has improved and now proposed to modify to a 100% payout plan to all creditors except the Sallie Mac Servicing Corp for claims #6 and 7. The Debtor's father, Ken Hershberger, is withdrawing his claim # 5. According to the trustee, the Debtors' plan will be 100% payout (excepting Sallie Mae Servicing Corp for claims #6 and 7) if the Debtors increase their plan payment to \$575.00 per month beginning February 15, 2003 for the next 25 months/payments into their plan. The Debtors move to defer any payments missed through February 15, 2003.

The claims of Sallie Mae Servicing Corp for claims #6 and 7 for student loans in the amount are not discharged by this Debtors' chapter 13 bankruptcy and shall not be paid by the Trustee but shall be paid by the debtors outside the plan after this chapter 13 is completed.

The plan will become a full pay plan as to all creditors except the student loan creditor, Sallie Mae Servicing Corp for claims #6 and 7, which shall be paid in full outside the plan; therefore, no creditor is prejudiced by this change. The Sallie Mac Servicing Corp shall receive notice of this modification and given 20 days to object.

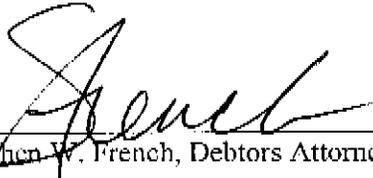
The Debtor's attorney requests approval of fees from the reserve set up in this matter in the amount of \$300.00 for the several reviews with Trustee's office regarding the status of this case, discussion with my clients re the increase in income, drafting and sending proposed new I and J's to my clients, drafting this motion and the order to resolve this matter. The plan payment has been increased to pay these additional fees.

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NOTICE REGARDING APPROVAL OF THIS MODIFICATION

Pursuant to Rule 2002(a) of the Federal Rules of Bankruptcy, this modification shall be approved by the Court without hearing unless within 20 days an objection to this modification and request for hearing is filed with the Court and copies served on the Debtors' attorney and the Trustee, Bernie Rakozy.

Dated this \_\_\_\_ day of January, 2003.

  
\_\_\_\_\_  
Stephen W. French, Debtors Attorney

APPROVED AS TO CONTENT AND FORM

See attached page  
Bernie Rakozy

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of this motion was sent first class and certified, RRQ to:

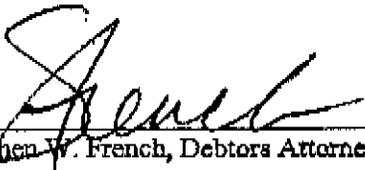
Sallie Mae Servicing Corp  
POB 7070  
Wilkes Barre, PA 18773-4100

  
\_\_\_\_\_

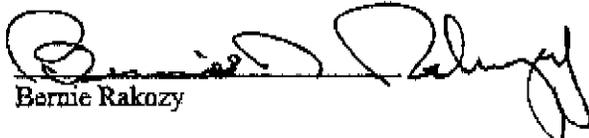
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Dated this \_\_\_\_ day of January, 2003.

  
\_\_\_\_\_  
Stephen W. French, Debtors Attorney

APPROVED AS TO CONTENT AND FORM

  
\_\_\_\_\_  
Bernie Rakozy

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true and correct copy of this motion was sent first class and certified, RRQ to:

Sallie Mae Servicing Corp  
POB 7070  
Wilkes Barre, PA 18773-4100