

In re Jose Deliz-Medina and Lourdes Giggiano-Deliz
10-33888-BKC-LMI

The dispute before the Court arose out of the “income verification language” (IVL) of the Debtors’ Second Amended Chapter 13 Plan, which stated that: (1) the Debtors would provide copies of all tax returns during the pendency of the plan, and (2) the Debtors would modify the plan and amend Schedules I and J *if necessary*. The Trustee moved to dismiss the Chapter 13 case eighteen months after the Debtors provided their tax return indicating increased income on the grounds that the debtors should have modified their plan to reflect the increased income. The Court determined that the IVL did not affirmatively require the Debtors to amend or modify the Chapter 13 Plan or Schedules I and J and while 11 U.S.C. §1329 allows a debtor, a trustee, or a creditor to seek modification via a motion, it does not require the debtor to make a *sua sponte* adjustment. However, this holding does not qualify the right of a debtor, the trustee, or a creditor to further seek adjustment of a debtor’s plan by filing a motion to modify.