

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-70393

BRENDA LOUISE STALEY,

Chapter 13

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING DEBTOR'S
MOTION FOR HARDSHIP DISCHARGE**

This case is before the Court on Debtor's motion for a hardship discharge (Docket # 97, the "Motion"). Debtor filed a Certification of Non-Response indicating that no one has filed an objection to the Motion. (Docket # 98.)

On January 31, 2014, the Court entered an order requiring Debtor to supplement the Motion, to "explain[] more fully why modification of Debtor's Chapter 13 Plan is not practicable." (Docket # 99, the "January 31 Order".) The January 31 Order stated in relevant part:

The Motion states, in part: "Modification of the plan under Section 1329 is not practicable as the plan will be expired by the time Debtor will be able to resume making her Chapter 13 Plan Payments." (Mot. at ¶ 7.) Notwithstanding this allegation, it is not clear why modification of the Debtor's Chapter 13 Plan under 11 U.S.C. § 1329 is not practicable. This, of course, is one of the requirements that must be met for a hardship discharge. 11 U.S.C. § 1328(b)(3). Why, for example, is the Debtor unable to propose and obtain approval of a plan modification that reduces Debtor's payments and the dividend to Class Eight? This requires explanation by the Debtor.

On February 3, 2014, Debtor filed a supplement to the Motion (Docket # 100, the "Supplement"). The Supplement fails to explain why a § 1329 plan modification is not practicable, in that there is no reason alleged, or apparent, why the Debtor cannot propose and obtain approval of a plan modification that excuses Debtor's plan payments for the remaining period of the Plan's 60-month length. Such a modification would fit within the language of § 1329(a)(1).

Accordingly,

IT IS ORDERED that the Motion (Docket # 97) is denied, without prejudice to Debtor's right to file and serve a proposed plan modification.

Signed on February 08, 2014

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge