

US Bankruptcy Court
Southern District of Florida
Waterview Building
1515 north Flagler Drive Room 801
West Palm Beach, FL 33401

Elizabeth Larrinaga
425 SW Friar Street
Port St. Lucie, Fl 34983
(305) 776-7886
Case Number 12-23351- PGH
(Plaintiff)

Vs.

US Department of Education
C/O Direct Loans Servicing Center
PO Box 5609
Greenville, TX 75403-5609
(Defendant)

and

University of Texas
NCM C/O Mike Cooper
PO Box 32900
ST Louis, MI 63132-8900
(Defendant)

**Adversary Proceeding
In conjunction with Chapter 7 Bankruptcy**

Dear Honorable Judge Paul G. Hyman,
I have revised this petition to include this "Adversary Proceeding" as required by law. It is my understanding that this petition must be accompanied by documentation to verify the circumstances related to this request. Enclosed, please find, the copies needed to authenticate this plead.

I do herby request a discharge of student loan related to this bankruptcy chapter 7 due to "undue hardship" stated herein.

On January 16, 2008 our daughter, Melody, was diagnosed with "Down Syndrome" at birth. Unfortunately, this situation caused medical complications which no parent expects. The following is a synopsis of our financial situation as related to my request.

- 1) As reflected in Schedule I and Schedule J, (copies enclosed) you will note that I am working as a subcontractor. I cannot work a conventional job due to the logistics related to my daughter's care. I am her primary caregiver and responsible to get to daily therapy as well as doctor appointments. She is now 4 years old and this constitutes assertive academic tutoring in an effort to bring her to grade level. I am taking the role of the "art therapist" as well as the "tutor" because we cannot afford

From Article at GetOutOfDebt.org

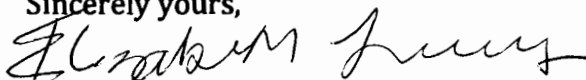
FLP120911AM0914USBSDF-APR
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those services. Melody has been diagnosed as a "mild" case of "Downs" therefore she could be active as an adult with aggressive education. Even if I could get a full time job, the costs of the additional services such as a babysitter, tutoring and art therapy would significantly outweigh the amount that I could obtain employed. At this time, **my family is already more than 150% below the poverty level.** Currently, we cannot maintain a minimal standard of living let alone afford to pay for the additional costs of student loans.

- 2) Melody is just beginning her life. She will need my direct assistance all of her life. Therefore, the possibility of repayment is slim to none based on this current circumstance.
- 3) Presently, I have an employment deferment with direct loans. I have contacted them to try and make arrangements for payments. They will, by law, accept any payment I can make however; they will not change the interest rate which is fixed at 8%. This means that a minimum payment of \$257.00 will need to be made monthly to cover **only the interest accrued during the month.** If I wanted to increase my monthly payment the remainder would then be applied to the actual principal amount. I have researched other options to direct loans however; I am not qualified because I am not employed and am not returning to school. Direct Loans has no recommendations on how to solve this problem. Nor will they change the interest rate to accommodate a more fitting payment.

Lastly, my husband is a naturalized US citizen. We both expect him to obtain a full time job as soon as possible. Still his income will only get us off food stamps and give us a minimal standard of living. As you can see, I have no solution to this problem. I cannot change anything about my current financial situation. Furthermore, I cannot foresee a more substantial income until a miracle occurs. Due to this hardship, I respectfully request that you consider discharging all of my student loans. If there is any additional information that you would like please do not hesitate to call me directly at (305) 776-7886. I am very grateful for any consideration you have in regards to this petition. Thank you all the time you have already invested in this case.

Sincerely yours,



Elizabeth Larrinaga

cc: Robert C. Furr
www.furrtrustee.com
2255 Glades Road Ste 337 W
Boca Raton ,Fl 33431

B6I (Official Form 6I) (12/07)

In re Patricio and Elizabeth Laminaga,
Debtor

Case No. 12-23351-PGH
(if known)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

| | | |
|-------------------------------------|-----------------------------------|-------------|
| Debtor's Marital Status: Married | DEPENDENTS OF DEBTOR AND SPOUSE | |
| | RELATIONSHIP(S): son and daughter | AGE(S): 7,4 |
| Employment: | DEBTOR | SPOUSE |
| Occupation | Unemployed | Unemployed |
| Name of Employer | N/A | N/A |
| How long employed | N/A | N/A |
| Address of Employer | N/A | N/a |

INCOME: (Estimate of average or projected monthly income at time case filed)

| | DEBTOR | SPOUSE |
|---|--------------------|--------------------|
| 1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly) | \$ <u>428.54</u> | \$ <u>643.84</u> |
| 2. Estimate monthly overtime | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 3. SUBTOTAL | \$ <u>428.54</u> | \$ <u>643.84</u> |
| 4. LESS PAYROLL DEDUCTIONS | | |
| a. Payroll taxes and social security | \$ <u>0.00</u> | \$ <u>0.00</u> |
| b. Insurance | \$ <u>0.00</u> | \$ <u>0.00</u> |
| c. Union dues | \$ <u>0.00</u> | \$ <u>0.00</u> |
| d. Other (Specify): _____ | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 5. SUBTOTAL OF PAYROLL DEDUCTIONS | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 6. TOTAL NET MONTHLY TAKE HOME PAY | \$ <u>428.54</u> | \$ <u>643.84</u> |
| 7. Regular income from operation of business or profession or farm (Attach detailed statement) | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 8. Income from real property | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 9. Interest and dividends | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 11. Social security or government assistance (Specify): <u>food stamps/cash assistance</u> | \$ <u>0.00</u> | \$ <u>877.71</u> |
| 12. Pension or retirement income | \$ <u>0.00</u> | \$ <u>0.00</u> |
| 13. Other monthly income (Specify): _____ | \$ <u>347.79</u> | \$ <u>0.00</u> |
| 14. SUBTOTAL OF LINES 7 THROUGH 13 | \$ <u>347.79</u> | \$ <u>877.71</u> |
| 15. AVERAGE MONTHLY INCOME (Add amounts on lines 6 and 14) | \$ <u>776.33</u> | \$ <u>1,521.55</u> |
| 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15) | \$ <u>2,297.88</u> | |

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:
Cash assistance was closed in 2/2012 due to a new part time job. Part time job ended May 1, 2012.
Decrease in monthly income of \$400.00 (part time) and 374.00 (cash assistance)

B6J (Official Form 6J) (12/07)

In re Patricio & Elizabeth Laminaga,
Debtor

Case No. 12-23351-PGH
(if known)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

| | |
|---|--------------------|
| 1. Rent or home mortgage payment (include lot rented for mobile home) | \$ <u>625.00</u> |
| a. Are real estate taxes included? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | |
| b. Is property insurance included? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | |
| 2. Utilities: | \$ <u>102.21</u> |
| a. Electricity and heating fuel | \$ <u>36.45</u> |
| b. Water and sewer | \$ <u>83.00</u> |
| c. Telephone | \$ <u>133.02</u> |
| d. Other <u>Internet/ Cable</u> | \$ <u>0.00</u> |
| 3. Home maintenance (repairs and upkeep) | \$ <u>664.00</u> |
| 4. Food | \$ <u>50.00</u> |
| 5. Clothing | \$ <u>86.43</u> |
| 6. Laundry and dry cleaning | \$ <u>0.00</u> |
| 7. Medical and dental expenses | \$ <u>400.00</u> |
| 8. Transportation (not including car payments) | \$ <u>0.00</u> |
| 9. Recreation, clubs and entertainment, newspapers, magazines, etc. | \$ <u>0.00</u> |
| 10. Charitable contributions | \$ <u>0.00</u> |
| 11. Insurance (not deducted from wages or included in home mortgage payments) | \$ <u>0.00</u> |
| a. Homeowner's or renter's | \$ <u>0.00</u> |
| b. Life | \$ <u>0.00</u> |
| c. Health | \$ <u>147.00</u> |
| d. Auto | \$ <u>0.00</u> |
| e. Other _____ | \$ <u>0.00</u> |
| 12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) _____ | \$ <u>0.00</u> |
| 13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan) | |
| a. Auto | \$ <u>0.00</u> |
| b. Other _____ | \$ <u>0.00</u> |
| c. Other _____ | \$ <u>0.00</u> |
| 14. Alimony, maintenance, and support paid to others | \$ <u>0.00</u> |
| 15. Payments for support of additional dependents not living at your home | \$ <u>0.00</u> |
| 16. Regular expenses from operation of business, profession, or farm (attach detailed statement) | \$ <u>0.00</u> |
| 17. Other <u>swimming lessons</u> | \$ <u>20.00</u> |
| 18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.) | \$ <u>2,347.11</u> |
| 19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: Cash assistance was closed on 2/2012 due to a new part ime job.Part time job ended May 1, 2012. Decrease in monthly income of \$347.00(cash assistance) and \$400.00 part time job. | |
| 20. STATEMENT OF MONTHLY NET INCOME | |
| a. Average monthly income from Line 15 of Schedule I | \$ <u>2,297.88</u> |
| b. Average monthly expenses from Line 18 above | \$ <u>2,347.11</u> |
| c. Monthly net income (a. minus b.) | \$ <u>-49.23</u> |

OFFICE of VITAL STATISTICS
CERTIFIED COPY
CERTIFICATION OF BIRTH

STATE FILE NUMBER: 109-2008-201049

CHILD'S NAME: MELODY ELIZABETH LARRINAGA

DATE OF BIRTH: JANUARY 16, 2008

SEX: FEMALE

COUNTY OF BIRTH: MIAMI-DADE

DATE FILED: JANUARY 17, 2008

MOTHER'S MAIDEN NAME: ELIZABETH GONZALEZ

FATHER'S NAME: PATRICIO LARRINAGA

DATE ISSUED: MAY 8, 2008

C. Meach G. Jj, State Registrar

REQ: 2008444841

THE ABOVE SIGNATURE CERTIFIES THAT THIS IS A TRUE AND CORRECT COPY OF THE OFFICIAL RECORD ON FILE IN THIS OFFICE.
THIS DOCUMENT IS PRINTED OR PHOTOCOPIED ON SECURITY PAPER WITH A WATERMARK OF THE GREAT SEAL OF THE STATE OF FLORIDA ON THE FRONT, AND THE BACK CONTAINS SPECIAL LINES WITH TEXT AND SEALS IN THERMOCHROMIC INK.

WARNING:



DH FORM 1946 (08-04)

24668437

CERTIFICATION OF VITAL RECORD



VOID IF ALTERED OR ERASED

VOID IF ALTERED OR ERASED





Name of Child (Last, First, Middle) Larrinaga melody Birth Date 1/16/08

PART II — MEDICAL EVALUATION

To be completed and signed by the Health Care Provider ONLY:

The child named above has had a complete history and physical exam on the following date: 02 02 2012
(Exam must be within one year of enrollment) Month Day Year

Screening Results: Height: 211 Weight: 35 BMI%: _____ B/P: 98/58 Hct/Hgb: _____ Lead: _____ Urinalysis: _____

| | | | | | | | |
|--------------------------|-----------|----------|---------------------------------|-----------------|---------------------------------|---------------------------------|-----------------------------------|
| Vision - Without Glasses | Right 20/ | Left 20/ | Passed <input type="checkbox"/> | Hearing - Right | Passed <input type="checkbox"/> | Failed <input type="checkbox"/> | Referred <input type="checkbox"/> |
| Vision - With Glasses | Right 20/ | Left 20/ | Failed <input type="checkbox"/> | Hearing - Left | Passed <input type="checkbox"/> | Failed <input type="checkbox"/> | Referred <input type="checkbox"/> |

- Gross dental (teeth and gums) Normal Abnormal
- Head/scalp/skin Normal Abnormal
- Eyes/Ears/Nose/Throat Normal Abnormal
- Chest/Lungs/Heart Normal Abnormal
- Abdomen Normal Abnormal
- Postural assessment Normal Abnormal

TB risk assessment done (Please review Targeted Testing Guidelines listed below.)

This child has the following problems that may impact the educational experience:

- Vision Hearing Speech/Language Physical Social/Behavioral Cognitive

Specify: Downs Syndrome

This child has a health condition that may require emergency action at school, e.g. seizures, allergies. Specify below.
(This form will be stored in the child's Cumulative Health Folder and may be accessed by both school and health personnel.)

Recommendations (Attach additional sheet if necessary):

(Please Check One)

- This child may participate fully in school activities including physical education.
- This child may participate in school activities including physical education with the following restriction/adaptation.
(Specify reason and restriction)

| | | |
|---|-----------------------|---|
| Signature/Title of Health Care Provider <u>B Hunt RNPE</u> | Date <u>2/2/12</u> | Address (Please print or stamp) Dr. Lisa Rankin MD PA 499 NW Prima Vista Blvd Suite 105 Port St. Lucie, FL 34983 |
| Name (Please print or stamp) <u>Beverly Hunt A RNPE</u> | | |

Tuberculosis Targeted Testing Guidelines for Health Care Providers

Tuberculosis Infection Risk:

Review the following risks and administer a Mantoux TB skin test if child is in one or more categories. The TB test is administered confidentially as part of the health examination. Do not record administration of any TB test or related information on this form.

- Recent immigrant (< 5 years), frequent visitor to TB endemic areas
- Close contact to active TB case
- Frequent contact with adults at high-risk for disease, HIV+, homeless, incarcerated, illicit drug user
- HIV+ or have other medical conditions that increase the risk to progress from infection to disease, e.g., chronic renal failure, diabetes, hematologic or any other malignancy, weight loss > 10% of ideal body weight, on immunosuppressive medications

Active TB Disease Risk:

- Does the child exhibit signs/symptoms of tuberculosis (e.g. cough for three weeks or longer, weight loss, loss of appetite)?
- If symptoms are present, work-up or refer for TB disease evaluation.

**US Bankruptcy Court
Southern District of Florida
Waterview Building
1515 North Flagler Drive Room #801
West Palm Beach, FL 33401**

Elizabeth Larrinaga
425 SW Friar Street
Port St. Lucie, Fl 34983
(305) 776-7886
(Debtor)

**Case Number 12-23351- PGH
Chapter 7**

Certificate of Service

I hereby certify that on this 10th day of September 2012, a true and correct copy of the "Adversary Proceeding" was forwarded by certified mail, return receipt to the following parties:

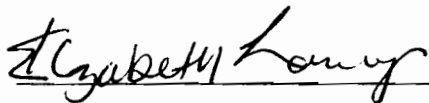
1) Assistant United States Attorney
General
Attn: Grisel Alonso
99 NE 4th Street Suite #300
Miami, FL 33132

2) Attorney General of the United
States at Washington D.C.
Department of Justice, Room B-
130950
Pennsylvania Ave. NW
Washington, DC 20530-001

3) US Department of Education
Direct Loan Servicing Center
PO Box 5609
Greenville, TX 75403-5609

4) University of Texas
Vice Chancellor and General Counsel
201 west 7th Street, 6th Floor
Austin, TX 78701

5) University of Texas
Vice Chancellor and General Counsel
701 South West Street
Arlington, TX 76010



Elizabeth Larrinaga

9/10/2012

Date