



A handwritten signature in blue ink that reads "Neil P. Olack".

Judge Neil P. Olack
United States Bankruptcy Judge
Date Signed: May 11, 2015

The Order of the Court is set forth below. The docket reflects the date entered.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

STEVE A. DEZELL,

CASE NO. 15-10596-NPO

DEBTOR.

CHAPTER 13

ORDER ON THE APRIL 21 OBJECTION AND THE MOTION TO WITHDRAW

This matter came before the Court for consideration on the Objection to Debtor's Amended Chapter 13 Plan Filed by Anna Jean Purnell Dezell (the "April 21 Objection") (Dkt. 60) filed by Anna Jean Purnell Dezell ("Anna Dezell") and the Motion to Withdraw Objection to Amended Chapter 13 Plan Filed by Anna Jean Purnell Dezell (the "Motion to Withdraw") (Dkt. 72) filed by Anna Dezell in the above-styled bankruptcy case. Being fully advised in the premises, the Court finds as follows:

1. On February 17, 2015, Steve A. Dezell (the "Debtor") filed a petition for relief pursuant to chapter 13 of the United States Bankruptcy Code. (Dkt. 1).
2. On March 2, 2015, Anna Dezell, the Debtor's wife, filed the Motion to Lift Automatic Stay Filed by Anna Jean Purnell Dezell (the "Motion for Relief") (Dkt. 11) requesting the Court to allow her to proceed with a contempt petition in the Chancery Court of Sunflower County, Mississippi (the "Chancery Court") to enforce a prior order (the "Chancery Court

Order”) issued by the Chancery Court requiring the Debtor, *inter alia*, to reinstate Anna Dezell and the vehicles in her possession on his automobile insurance policy and to not remove Anna Dezell from his health insurance policy.

3. On March 24, 2015, the Debtor filed the Amended Chapter 13 Plan (the “Plan”) (Dkt. 34). In the Plan, the Debtor lists a \$3,500.00 monthly payment to Anna Dezell as a post-petition domestic support obligation (“DSO”), but instead of proposing to make those payments directly to Anna Dezell or indirectly through the Plan, the Plan indicates that the \$3,500.00 obligation is “[t]o be appealed to the Supreme Court.”

4. On March 31, 2015, Anna Dezell filed the Objection to Debtor’s Amended Chapter 13 Plan Filed by Anna Jean Purnell Dezell (the “March 31 Objection”) (Dkt. 41) requesting, *inter alia*, the Court to deny confirmation of the Plan because it does not provide for the payment of the Debtor’s monthly \$3,500.00 DSO to Anna Dezell.

5. On April 16, 2015, the Motion for Relief and the March 31 Objection came on for hearing (the “Hearing”). At the Hearing, the Court ruled from the bench denying the Motion for Relief and sustaining in part and denying in part the March 31 Objection. The Court, however, took the following issue (the “Insurance Issue”) under advisement: whether two of the Chancery Court Order’s requirements—the Debtor (a) must reinstate Anna Dezell and the vehicles in her possession on his automobile insurance policy and (b) must not remove Anna Dezell from his health insurance policy—are ongoing DSOs that should be provided for in the Plan.

6. On April 21, 2015, Anna Dezell filed the April 21 Objection stating that because the Debtor has failed to comply with the Chancery Court Order by not reinstating her on his automobile insurance policy, she has been forced to purchase automobile insurance herself. Therefore, Anna Dezell requests the Court to deny confirmation of the Plan because it does not

provide for the ongoing reimbursement of her payments to purchase and maintain automobile insurance.

7. On April 22, 2015, the Clerk of the Bankruptcy Court issued a notice (Dkt. 61) scheduling a hearing on the April 21 Objection for May 14, 2015 (the “May 14 Hearing”).

8. On April 27, 2015, Anna Dezell filed the Motion to Withdraw requesting to “withdraw her objection to the Amended Chapter 13 Plan **AS TO ONLY** the failure of the Debtor . . .to provide health insurance” because the Debtor has complied with that requirement of the Chancery Court Order.

9. Although the April 21 Objection and the Motion to Withdraw are respectively labeled as an objection to confirmation and a motion to withdraw, the Court determines that the true nature of these two documents, according to their collective substance rather than their labels, is a post-Hearing brief on the Insurance Issue. *See Armstrong v. Capshaw, Goss & Bowers, LLP*, 404 F.3d 933, 936 (5th Cir. 2005) (“[W]e have oft stated that ‘the relief sought, that to be granted, or within the power of the Court to grant, should be determined by substance, not a label.’”) (citing *Edwards v. City of Houston*, 78 F.3d 983, 995 (5th Cir. 1996) (quoting *Bros. Inc. v. W.E. Grace Mfg. Co.*, 320 F.2d 594, 606 (5th Cir. 1963))).

10. Although no post-Hearing briefs were requested by the Court, the Court finds that the April 21 Objection and the Motion to Withdraw, collectively as a post-Hearing brief, are relevant to the Insurance Issue and are well taken. As a result, the Court finds that the May 14 Hearing is not necessary and should be cancelled. The Court further finds the Debtor and the Trustee should have until May 29, 2015 to file their own post-Hearing briefs on the Insurance Issue. Following May 29, 2015, the Court will issue a separate order on the Insurance Issue.

IT IS, THEREFORE, ORDERED that the April 21 Objection and the Motion to Withdraw hereby shall be collectively considered a post-Hearing brief on the Insurance Issue.

IT IS FURTHER ORDERED that the May 14 Hearing hereby is cancelled.

IT IS FURTHER ORDERED that the Debtor and Trustee shall have until May 29, 2015 to file their own post-Hearing briefs on the Insurance Issue.

##END OF ORDER##