

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Kathy Lee Romero and
Michael Joseph Romero,

Debtors,

Case No.: BKY 03-38603 GFK

Chapter 13 Case

NOTICE OF HEARING AND MOTION

TO: The Chapter 13 Trustee, the United States Trustee and
other entities specified in Local Rule 1204(a)

1. Debtors Kathy Lee Romero and Michael Joseph Romero
move the court for the relief requested below and give notice
of hearing.

2. The court will hold a hearing on this motion at the
10:30 a.m. on September 23, 2004, in Courtroom No. 228B,
Second Floor, United States Courthouse, 316 N. Robert Street,
St. Paul, Minnesota.

3. Any response to this motion must be filed and
delivered not later than 10:30 a.m. on September 20, 2004,
which is three days before the time set for the hearing
(excluding Saturdays, Sundays, and holidays), or filed and
served by mail not later than September 16, 2004, which is
seven days before the time set for the hearing (excluding
Saturdays, Sundays, and holidays). UNLESS A RESPONSE OPPOSING
THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION
WITHOUT A HEARING.

4. This court has jurisdiction over this motion
pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. Rule
5505 and Local Rule 1070-1. This proceeding is a core
proceeding. The petition commencing this chapter 13 case was
file on December 26, 2003. The case is now pending in this
court.

5. This motion arises under 11 U.S.C. § 1329. This
motion is filed under Fed. R. Bankr. P. Rule 9013 and Local
Rules 9013-1 *et. seq* and 30-19-2. Movant requests relief with

respect to debtors' confirmed Chapter 13 Plan herein, specifically, that such plan be modified to conform to the debtors' proposed 2nd Modified Chapter 13 Plan served and filed herewith.

Wherefore, debtors move the court for an order that the debtors' proposed 2nd Modified Chapter 13 Plan served and filed herewith be confirmed as the debtors' Chapter 13 Plan herein and such other relief as may be just and equitable.

Dated: __August 24, 2004__

_/e/ Edward F. Rooney_____
Edward F. Rooney (ID #9321X)
5001 Chowen Avenue South
Minneapolis, MN 55410
Telephone: (612)285-7621
Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

SECOND MODIFIED CHAPTER 13 PLAN

Kathy Lee Romero and
Michael Joseph Romero,

Dated: August 24, 2004

DEBTOR

Case No. BKY 03-38603

In a joint case,

debtor means debtors in this plan.

1. PAYMENTS BY DEBTOR —

- a. As of the date of this plan, the debtor has paid the trustee \$ 4,560.00.
- b. After the date of this plan, the debtor will pay the trustee \$ 50.00 per month for 52 months, beginning within 30 days after the filing of this plan for a total of \$ 2,600.00.
- c. The debtor will also pay the trustee an addition \$150.00 per month for months 5 continuing through month 52.
- d. The debtor will pay the trustee a total of \$ 14,360.00 [line 1(a) + line 1(b) + line 1(c)].

2. PAYMENTS BY TRUSTEE — The trustee will make payments only to creditors for which proofs of claim have been filed, make payments monthly as available, and collect the trustee's percentage fee of 10.00% for a total of \$ 1,436.00 [line 1(d) x .10] or such lesser percentage as may be fixed by the Attorney General. For purposes of this plan, month one (1) is the month following the month in which the debtor makes the debtor's first payment. Unless ordered otherwise, the trustee will not make any payments until the plan is confirmed. Payments will accumulate and be paid following confirmation.

3. PRIORITY CLAIMS — The trustee shall pay in full all claims entitled to priority under § 507, including the following. The amounts listed are estimates only. The trustee will pay the amounts actually allowed.

<i>Creditor</i>	<i>Estimated Claim</i>	<i>Monthly Payment</i>	<i>Beginning in Month #</i>	<i>Number of Payments</i>	<i>TOTAL PAYMENTS</i>
a. Minn. Dept of Revenue	\$ <u>300.00</u>	\$ <u>145.80</u>	<u>5</u>	<u>1</u>	\$ <u>148.80</u>
		\$ <u>180.00</u>	<u>6</u>	<u>.86</u>	\$ <u>154.20</u>
b. Edward F. Rooney	\$ <u>1,250.00</u>	\$ <u>25.80</u>	<u>6</u>	<u>1</u>	\$ <u>25.80</u>
		\$ <u>180.00</u>	<u>7</u>	<u>6.8</u>	\$ <u>1,224.20</u>
d. TOTAL					\$ <u>1,550.00</u>

4. LONG-TERM SECURED CLAIMS NOT IN DEFAULT — The following creditors have secured claims. Payments are current and the debtor will continue to make all payments which come due after the date the petition was filed directly to the creditors. The creditors will retain their liens.

- a. None

5. HOME MORTGAGES IN DEFAULT [§ 1322(b)(5)] — The trustee will cure defaults (plus interest at the rate of 0 per cent per annum) on claims secured only by a security interest in real property that is the debtor's principal residence as follows. The debtor will maintain the regular payments which come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

<i>Creditor</i>	<i>Amount of Default</i>	<i>Monthly Payment</i>	<i>Beginning in Month #</i>	<i>Number of Payments</i>	<i>TOTAL PAYMENTS</i>
a. <u>Bank of America</u>	\$ <u>5,336.94</u>	\$ <u>4,391.89</u>	already paid		\$ <u>4,391.89</u>
		\$ <u>45.00</u>	<u>1</u>	<u>4</u>	\$ <u>190.00</u>
		\$ <u>180.00</u>	<u>5</u>	<u>4.19</u>	\$ <u>755.05</u>
b. TOTAL					\$ <u>5,336.94</u>

6. OTHER LONG-TERM SECURED CLAIMS IN DEFAULT [§ 1322 (b)(5)] — The trustee will cure defaults (plus interest at the rate of 8 per cent per annum) on other claims as follows and the debtor will maintain the regular payments which come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

<i>Creditor</i>	<i>Amount of Default</i>	<i>Monthly Payment</i>	<i>Beginning in Month #</i>	<i>Number of Payments</i>	<i>TOTAL PAYMENTS</i>
a. <u>none</u>	\$ _____	\$ _____	_____	_____	\$ _____
b. _____	\$ _____	\$ _____	_____	_____	\$ _____
c. TOTAL					\$ <u>0.00</u>

7. OTHER SECURED CLAIMS [§ 1325(a)(5)] — The trustee will make payments to the following secured creditors having a value as of confirmation equal to the allowed amount of the creditor's secured claim using a discount rate of 8 percent. The creditor's allowed secured claim shall be the creditor's allowed claim or the value of the creditor's interest in the debtor's property, whichever is less. The creditors shall retain their liens. NOTE: NOTWITHSTANDING A CREDITOR'S PROOF OF CLAIM FILED BEFORE OR AFTER CONFIRMATION, THE AMOUNT LISTED IN THIS PARAGRAPH AS A CREDITOR'S SECURED CLAIM BINDS THE CREDITOR PURSUANT TO 11 U.S.C. § 1327 AND CONFIRMATION OF THE PLAN WILL BE CONSIDERED A DETERMINATION OF THE CREDITOR'S ALLOWED SECURED CLAIM UNDER 11 U.S.C. § 506(a).

Creditor	Claim Amount	Secured Claim	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
a. none	\$ _____	\$ _____	\$ _____	_____	_____	\$ _____
b. _____	\$ _____	\$ _____	\$ _____	_____	_____	\$ _____
c. TOTAL						\$ 0.00

8. SEPARATE CLASS OF UNSECURED CREDITORS — In addition to the class of unsecured creditors specified in ¶ 9, there shall be a separate class of nonpriority unsecured creditors described as follows: _____ none _____

- a. The debtor estimates that the total claims in this class are \$ _____ 0.00 _____.
- b. The trustee will pay this class \$ _____ 0.00 _____.

9. TIMELY FILED UNSECURED CREDITORS — The trustee will pay holders of nonpriority unsecured claims for which proofs of claim were timely filed the balance of all payments received by the trustee and not paid under ¶ 2, 3, 5, 6, 7 and 8 their pro rata share of approximately \$ 6,037.06 [line 1(d) minus lines 2, 3(e), 5(d), 6(d), 7(d) and 8(b)].

- a. The debtor estimates that the total unsecured claims held by creditors listed in ¶ 7 are \$ _____ 0.00 _____.
- b. The debtor estimates that the debtor's total unsecured claims (excluding those in ¶ 7 and ¶ 8) are \$ 64,602.95 _____.
- c. Total estimated unsecured claims are \$ 64,602.95 [line 9(a) + line 9(b)].

10. TARDILY-FILED UNSECURED CREDITORS — All money paid by the debtor to the trustee under ¶ 1, but not distributed by the trustee under ¶ 2, 3, 5, 6, 7, 8 or 9 shall be paid to holders of nonpriority unsecured claims for which proofs of claim were tardily filed.

11. OTHER PROVISIONS —

- a. The trustee may distribute funds not allocated above at her discretion.

12. SUMMARY OF PAYMENTS —

Trustee's Fee [Line 2]	\$ 1,436.00
Priority Claims [Line 3(e)]	\$ 1,550.00
Home Mortgage Defaults [Line 5(d)]	\$ 5,336.94
Long-Term Debt Defaults [Line 6(d)]	\$ 0.00
Other Secured Claims [Line 7(d)]	\$ 0.00
Separate Class [Line 8(b)]	\$ 0.00
Unsecured Creditors [Line 9(c)]	\$ 6,037.06
TOTAL [must equal Line 1(d)]	\$ 14,360.00

Edward F. Rooney (ID #9321X)
 Attorney for Debtor
 5001 Chowen Avenue South
 Minneapolis MN 55410
 Telephone: 612/285-7621

Signed: /e/ Kathy Lee Romero
 Kathy Lee Romero, Debtor

Signed: /e/ Michael Joseph Romero
 Michael Joseph Romero, Debtor

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Kathy Lee Romero and
Michael Joseph Romero,

Debtors,

AFFIDAVIT OF DEBTOR
KATHY LEE ROMERO

Case No.: BKY 03-38603 GFK
Chapter 13 Case

State of Minnesota)
) ss.
County of Hennepin)

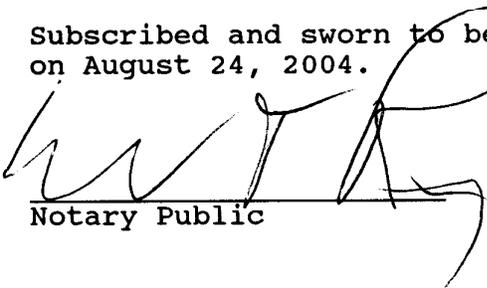
Kathy Lee Romero, being first duly sworn, deposes and states as follows:

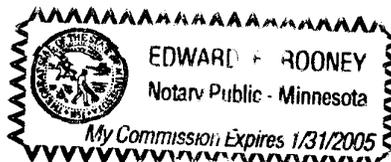
1. I am one of the debtors in this Chapter 13 case.
2. My husband Michael Romero and I failed to make the required payments for June and July 2004 both on the mortgage on our homestead and on our Chapter 13 plan because the funds that we had intended to use for those payments were stolen from our home.
3. We have now made the required mortgage payments for June and July and will make the August payment in the very near future, but we will have additional fees that we will have to pay the attorneys for our mortgagee for the next several months.
4. I have been unemployed, but I have had many interviews for jobs and I expect either to find employment in the near future or to take up self employment as a day care provider.
5. My husband Michael Romero and I will be able to make the payments contemplated by our proposed 2nd Modified Chapter 12 Plan.

Further your affiant does not say.


Kathy Lee Romero

Subscribed and sworn to before me
on August 24, 2004.


Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Kathy Lee Romero and
Michael Joseph Romero,

Debtors,

Case No.: BKY 03-38603 GFK

Chapter 13 Case

DEBTORS' MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO MODIFY CHAPTER 13 PLAN

Facts

Debtors' Chapter 13 Plan, as presently confirmed, calls for debtors to make monthly payments of \$250 to the Chapter 13 Trustee. Because of unexpected financial reverses, the debtors have failed to make the required plan payments for the months of June through August 2004. Debtors propose modification of their Chapter 13 plan to forgive their current delinquencies, to provide monthly payments of \$50 for the months of September through December 2004 and to provide \$250 monthly payments for 48 consecutive months thereafter. Debtors' proposed plan would provide enough funds for 100% payment of all claims that have been filed in this case.

Argument

11 U.S.C. §1329 authorizes the court, at the debtors' request, to allow modification of the debtors' Chapter 13 plan, provided the proposed modified plan continues to meet the requirements of 11 U.S.C. §1322(a) and 1322(b) as to permitted plan provisions and meets the requirements of 11 U.S.C. §1323 (c) as to the rights of secured creditors. The debtors proposed modified Chapter 13 Plan does comply with such statutory requirements and should be confirmed by the court upon the debtors' motion.

Dated: August 24, 2004

/e/ Edward F. Rooney
Edward F. Rooney (ID #9321X)
5001 Chowen Avenue South
Minneapolis, MN 55410
Telephone: (612)285-7621
Attorney for Debtors

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

In re:

Case No. BKY: 03-38603 GFK

Michael and Kathy Romero,
Debtors,

Chapter 13 Case

UNSWORN CERTIFICATE OF SERVICE

I, Cindy K. Wester, declare under penalty of perjury that on August 25, 2004 I mailed copies of the foregoing Notice of Hearing and Motion, an Affidavit of Debtor Kathy Lee Romero, and a Debtor's Memorandum of Law by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Allina Hospitals and Clinics
701 Xenia Avenue South
Golden Valley MN 55416-1029

Allina Hospitals and Clinics
c/o Reliance Recoveries
6160 Summit Dr N Ste 420
Minneapolis MN 55430

AT&T Broadband
c/o Interstate Credit Center
11300 Minnetonka Mills Rd
Minnetonka MN 55305

AT&T Broadband
c/o Credit Protection Assoc.
1355 Noel Rd Ste 2100
Dallas TX 75240

AT&T Broadband
10 Ruver Park Plaza
St. Paul MN 55107-1219

Bally's Total Fitness
71 Minnesota Avenue
Little Canada MN 55117

Bank of America
475 Cross Point Parkway
PO Box 9000
Getzville NY 14068-9000

Bank of America
c/o Wilford & Geske
6043 Hudson Rd Ste 290
PO Box 25915
Woodbury MN 55125

Boisclair Corporation
3005 Ottawa Avenue S
St Louis Park MN 55416

Boisclair Corporation
c/o National Recoveries
6225 University Avenue NE
Fridley MN 55432

Capital One Services, Inc.
1957 Westmoreland Road
Richmond, VA 23276-5617

Capital One Services, Inc.
c/o FMA Alliance Ltd
11811 North Freeway Ste 900
Houston TX 77060

Children's Health Care
PO Box 86 JSO
121833 SDS
Minneapolis MN 55486-0086

Children's Health Care
c/o Reliance Recoveries
6160 Summit Dr N Ste 420
Minneapolis MN 55430

Comcast
c/o Credit Protection Assn
13355 Noel Rd
Dallas TX 75240

Comcast
PO Box 173885
Denver, CO 80217-3885

Guzik Law Office, PA
2332 Lexington Avenue N
Roseville MN 55113
Golden Valley MN 55416-1029

Health Partners
PO Box 1450 NW 7293
Minneapolis MN 55485-7293

Herbergers
c/o NBGL
PO Box 10327
JacksonMS39209

Herbergers
3800 Silver Lake Road
St. Anthony MN 55421

INTERNAL REVENUE SERVICE
STOP 5700
316 N ROBERT ST
ST PAUL MN 55101

Lakeview Hospital
c/o Reliance Recoveries
6160 Summit Dr N Ste 420
Minneapolis MN 55430

Lakeview Hospital
927 W. Churchill St
Stillwater, MN 55082

Media One Roseville
c/o Interstate Credit Center
11300 Minnetonka Mills Road
Minnetonka MN 55305

Minnesota Child Support Payment Ctr
PO Box 64326
St Paul MN 55164

Lakeview Hospital
c/o Protocol Financial Services
1937 Woodlane Dr Ste 204
Woodbury MN 55125-3926

Qwest
c/o Risk Management
4600 E Montgomery Blvd
Albuquerque NM87109

Regions Hospital
NW 3969
PO Box 1450
Minneapolis MN 55485-3969

Regions Hospital
c/o The CBE Group, Inc
Payment Processing Center
Box 3251
Milwaukee WI 53201-3251

Southeast Region Child Support Unit
PO Box 2806
Fargo ND 58108 2806

St. Paul Radiology PA
190 E Fifth Street Ste 250
St. Paul MN 55101

Stillwater Medical Group PA
921 South Greeley Street
Stillwater MN 55082

T Mobile
P.O. Box 790047
St. Louis, MO 63179-0047

Tom Thumb No 219
c/o AAA Collectors Inc
2950 N Academy Blvd
Colorado Springs CO 80917

Wells Fargo Bank Minnesota
5801 Neal Avenue N Ste 1
Oak Park Heights MN 55082

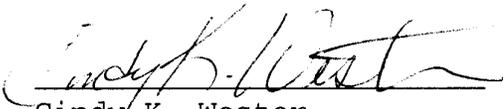
Xcel Energy
PO Box 9477
Minneapolis MN 55484-9477

U.S. Trustee
Habbo G. Fokkena
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Attn: Margaret Culp
Chapter 13 Trustee's Office
12 South Sixth Street, Suite 310
Minneapolis, MN 55402

James A. Geske
Wilford & Geske
7650 Currell Blvd., Suite 300
Woodbury, MN 55125

Executed on: August 25, 2004


Cindy K. Wester
2405 W. 42nd St. #6
Minneapolis, MN 55410