

**MEMORANDUM TO THE DEBTORS AND THEIR ATTORNEYS CONCERNING  
CERTIFICATION UNDER PENALTY OF PERJURY REGARDING STATUS OF POST-PETITION  
OBLIGATIONS AS OF CHAPTER 13 PLAN CONFIRMATION HEARING**

The Court and the Trustee consider the payment by the debtor(s) of their post-petition direct payments as set forth in their proposed Chapter 13 plan as essential evidence of the ability of the debtor(s) to live within their budget and of the feasibility of their proposed Chapter 13 plan. The Trustee also believes that the debtor(s)' failure to make such post-petition payments constitutes a material default of the terms of the proposed Chapter 13 Plan. I had previously prepared a form Certification to be signed by the debtor(s) that all direct payments have been made from the date of the petition through the date confirmation.

Effective **November 1, 2012**, the Court adopted its own form (**Form 3015-c**) for this purpose that covers all of their direct payment obligations including domestic support obligations. **START USING THIS COURT FORM IMMEDIATELY IN LIEU OF MY FORM. I will no longer accept my old Certification form.** I would make the following observations about this new form:

(a) In Paragraph (1), the Certification notes that "I/We ( ) have ( ) have not: proposed a plan under which certain claims shall be paid directly by me/us rather than through the Chapter 13 Trustee...." **Be sure to check off the appropriate box indicating that the debtors "have" or "have not" direct payments.** Even if the rest of the blanks in the form are completed, the Certification is a meaningless act without these boxes checked. I will not recommend the case for confirmation if such an incomplete Certification is received by my office.

(b) Local Rule of Bankruptcy Procedure 3015(e)(3)(B) requires that a properly executed copy of this Certification shall be tendered to my office no later than seven (7) days prior to the scheduled confirmation hearing. My interpretation of this new Rule is as follows:

\*I will not hold up confirmation of the plan if I have not received a certification for direct payment(s) that come due during this seven day period prior to the scheduled Court hearing. The debtor(s) should, however, make those payments as such come due.

\*Certifications for direct payments are based upon the due date for such direct payments, not some "grace" period that the debtor(s) have or think they have.

\*In order to comply with the requirement of the Certification being tendered to me, I would request that such should be filed with the Court. The Court has created an event Code for that purpose.

\*If confirmation does not occur in a case where I have received a Certification due to a continuance of the confirmation hearing or the entry of a denial order, I would request a **new** Certification when the case comes up for a new confirmation hearing. I will not support confirmation of a plan with an old Certification.

John J. Talton  
Chapter 13 Trustee  
Eastern District of Texas  
Tyler, Marshall, Lufkin, and Beaumont Divisions