



Opinion 490

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Opinion Title: 03/16/2006 PUBLISHED In re Clay, 05-80043, Judge Thurman.

Body: The Chapter 13 Trustee objected to the Debtor's proposed chapter 13 plan because it proposed to pay the Debtor's secured creditors directly. The Trustee argued that the Bankruptcy Code does not generally allow a Debtor to make payments directly to a secured creditor. The Trustee also argued that changes to the Bankruptcy Code under the BAPCPA overruled any caselaw which might have allowed for direct payments. Citing to In re Case, 11 B.R. 843 (Bankr. D. Utah 1981), the Court held that before the BAPCPA a debtor could choose to pay a secured creditor directly so long as the creditor is paid pursuant to the terms of the underlying contract. The Court analyzed changes to the Bankruptcy Code under the BAPCPA, and concluded that In re Case was not overruled by the BAPCPA. A debtor may propose a chapter 13 plan to pay secured creditors directly so long as the creditor is paid pursuant to the underlying contract.

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Judge: [Judge William T. Thurman](#) [2]

Date: Thursday, March 16, 2006

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