



Opinion 568

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Opinion Title: 07/26/2013 PUBLISHED In re Jensen, 12-33826 , Judge Thurman .

Body: Chapter 13 Debtors commenced voluntary contributions to wife's retirement plan less than three months prior to the date of petition and deducted such contributions as an expense on their Form 22C. The Chapter 13 Trustee objected to confirmation of Debtors' Plan, arguing that Debtors were not contributing all of their projected disposable income to the repayment of unsecured creditors as required by § 1325(b). The Trustee also objected on the grounds that beginning voluntary retirement contributions so close to the petition date showed that the Debtors were not proceeding in good faith. The Court concluded that voluntary contributions to qualified retirement plans are not disposable income as long as they are being made as of the date of petition, adopting the reasoning of the Sixth Circuit Bankruptcy Appellate Panel in *Burden v. Seafort* (In re Seafort), 437 B.R. 204 (B.A.P. 6th Cir. 2010). Turning to the issue of good faith, the Court held that this and other cases involving voluntary contributions to qualified retirement plans must be subjected to a good faith analysis. The Court applied the totality of the circumstances test and found that, on the facts of the case, the Debtors were not proceeding in bad faith.

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

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