

MEMORANDUM

TO: All Chapter 13 Practitioners

FROM: Judge Pat E. Morgenstern-Clarren *PM*

DATE: August 26, 1997

RE: Dismissals for Lack of Funding at Confirmation

The funding of a Chapter 13 plan, whether by wage order or self-pay, is the linchpin of any Chapter 13 case. In addition to being advised by their own counsel about the importance of making payments to the Chapter 13 Trustee on time and in full, debtors are reminded of this obligation at the 11 U.S.C. § 341 Meeting of Creditors. Also, the standard wage order to employers and the self-pay orders (both of which are sent to debtors) remind debtors that the payments must be made. Despite this, an increasing number of cases are coming on for confirmation hearing with the debtor not having made the plan payments in full to the Chapter 13 Trustee.

In light of the above, this is to provide additional notice that debtors are expected to be current in their funding to the Chapter 13 Trustee's office as of the confirmation hearing. **If the funding is not current, debtors should anticipate that their case will be dismissed at the confirmation hearing, without further adjournment to attempt to remedy the funding problem.** The Court will continue to follow the policy that timely motions to reinstate may be filed as set forth in the Court's memorandum of July 16, 1996, copies of which are available from the Clerk's office.

Information is readily available from the office of the Chapter 13 Trustee as to whether a debtor is fully funding his or her obligations. Counsel are urged to check with the Trustee's office well before the confirmation hearing date to identify and correct any funding problems. If counsel believes that the Trustee's information is inaccurate, counsel should be prepared **at the confirmation hearing** to present evidence of payment, in the form of copies of the checks, money orders etc. or copies of pay stubs showing that all payments have been deducted by the employer.

Your cooperation on this issue is appreciated.