

Sixth Circuit Case Excludes Voluntary Retirement Contributions from a Debtor's Disposable Income

June 12, 2020

The U.S. Court of Appeals for the Sixth Circuit (the "Sixth Circuit"), whose jurisdiction includes Michigan, Ohio, Kentucky, and Tennessee, recently held that, under Chapter 13 of the Bankruptcy Code, a debtor's pre-petition and certain post-petition voluntary retirement contributions are excludable from the debtor's disposable income, which is used to satisfy a debtor's obligations to its unsecured creditors. In *Davis*, a debtor filed for bankruptcy under Chapter 13 of the Bankruptcy Code and sought to satisfy her unsecured debts by paying all of her projected disposable income to her unsecured creditors. The debtor sought to exclude her voluntary 401(k) contributions from her projected disposable income, but the bankruptcy court upheld an amended bankruptcy plan that included such contributions in her disposable income. The debtor appealed to the Sixth Circuit, which held that, because the debtor's post-petition monthly 401(k) contributions were regularly withheld from the debtor's wages prior to the bankruptcy, such contributions were excludable from the debtor's disposable income. Consequently, the Sixth Circuit vacated the bankruptcy court's order and remanded the case back to the bankruptcy court for further proceedings. *Davis v. Helbling*, No. 19-3117 (6th Cir. Jun 1, 2020) can be found [here](#).