

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 10-74997

ROGER V. FERGUSON, and
BRENDA K. FERGUSON,

Chapter 13

Judge Thomas J. Tucker

Debtors.

**ORDER DENYING DEBTOR BRENDA K. FERGUSON'S MOTION TO WAIVE THE
DEBTOR ROGER V. FERGUSON'S REQUIREMENT OF POST-CONFIRMATION
CERTIFICATION REGARDING DOMESTIC SUPPORT OBLIGATIONS**

This case is before the Court on a motion filed by Debtor Brenda K. Ferguson, entitled "Debtor-Wife's Motion to Waive the Post-Confirmation Certification Regarding Domestic Support Obligations Requirement for the Debtor-Husband" (Docket # 66, the "Motion"). The Motion seeks a waiver of the requirement to file a certification regarding domestic support obligations, due to the death of Debtor Roger V. Ferguson on June 9, 2013. On December 31, 2013, Debtor Brenda K. Ferguson filed a Certification of Non-Response, indicating that no one had filed an objection to the Motion.

The Motion must be denied, because the Motion does not show that it was filed by or on behalf of anyone with standing to seek the relief sought. The Debtor died more than 6 months before the Motion was filed, so neither Debtor Brenda K. Ferguson nor her attorney had authority to file the Motion seeking relief on behalf of Debtor Roger V. Ferguson. Only a personal representative duly appointed by the probate court under the laws of the State of Michigan may file a motion for waiver of the post-confirmation certification regarding domestic support obligation requirement. *Cf.* Mich. Comp. Laws Ann. § 700.3103 (stating, in relevant part, that "[e]xcept as otherwise provided in article IV, to acquire the powers and undertake the duties and liabilities of a decedent's personal representative, a person must be appointed by the register or by court order, must qualify, and must be issued letters"); Mich. Comp. Laws Ann. § 700.3703(3) (stating that "[e]xcept as to a proceeding that does not survive the decedent's death, a personal representative of a decedent domiciled in this state at death has the same standing to sue and be sued in the courts of this state and the courts of another jurisdiction as the decedent had immediately prior to death"); *In re Hamilton*, 274 B.R. 266, 267 (W.D. Tex. 2001) (citing *In re Lucio*, 251 B.R. 705, 708-09 (Bankr. W.D. Tex. 2000)) ("[W]hen a debtor dies, the only person who can then appear on the debtor's behalf is the person so named as the official representative of the probate estate of the debtor.")

Accordingly,

IT IS ORDERED that the Motion (Docket # 66), is denied, without prejudice to the right of a duly appointed personal representative of the deceased Debtor to file a motion seeking a

waiver of the requirement to file a certification regarding domestic support obligations. Any such motion must be filed no later than July 25, 2014, or the Court may dismiss the Chapter 13 case of Roger V. Ferguson, only, under Fed.R.Bankr.P. 1016, without further notice or hearing.

Signed on July 11, 2014

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge