



Opinion 517

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Opinion Title: 10/24/2007 PUBLISHED In re Darin L. Burt, 07-23193, Judge Thurman.

Body: In this chapter 13 case, the issue before the Court was whether Ford Motor Credit held a purchase money security interest in the Debtor's vehicle. Ford Motor Credit filed an objection to the confirmation of the Debtors' proposed Chapter 13 plan on the basis that the Debtors' plan improperly crammed down Ford Motor Credit's secured claim in violation of 11 U.S.C. §1325(a). BAPCPA amended §1325 to give special protection to creditors who finance automobile transactions that occur within 910 prior to the debtors' filing for chapter 13 relief. This special protection is given to creditors that hold a purchase money security interest in the vehicle. The Court determined that Ford Motor Credit's entire claim, including the portion of the claim attributable to negative equity and costs associated with the purchase of the vehicle, qualified as a purchase money security interest and must be paid in full as a secured claim. Accordingly, the Court concluded that the hanging paragraph of §1325(a) applied in this case and the Debtor could not "cram down" Ford Motor Credit's claim pursuant to §506. Therefore, Ford Motor Credit's objection to confirmation was sustained and confirmation of the Debtor's plan was denied without prejudice.

File:  [517.pdf](#) [1]

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

Date: Wednesday, October 24, 2007

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