

In the United States Bankruptcy Court
For the Northern District of Georgia
Rome Division

FILED
12/13/06

In re	)	Case No. 06-41162-MGD
	)	
Travis Wayne Slocum and	)	Chapter 13
Marie Belle Slocum,	)	
	)	
Debtors.	)	Judge Diehl

AND

In re	)	Case No. 06-41198-MGD
	)	
Sharon Marie Silvers,	)	Chapter 13
	)	
Debtor.	)	Judge Diehl

ORDER

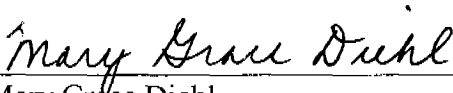
Each of these Chapter 13 cases involve a provision in a confirmed plan whereby the Debtor(s) propose to surrender a vehicle to a secured creditor in full satisfaction of the debt secured by the vehicle. In each case, the vehicle was acquired by the Debtor(s) for personal use and within 910 days of the filing of the Chapter 13 petition. Debtors contend that the addition of the "hanging paragraph" following 11 U.S.C. § 1325(a)(9) permits this action because the claim of the secured creditor is not subject to bifurcation under 11 U.S.C. § 506(a) in accordance with the terms of the "hanging paragraph." The secured creditors contend that bifurcation under section 506 is not relevant where the debtor is not retaining the collateral and the deficiency claim is determined under state law, not under Section 506(a).

A number of courts have decided this issue and have reached different results for different reasons. This Court has reviewed those decisions and, for the reasons set out in *Dupaco Community Credit Union v. Zehrung (In re Zehrung)*, 351 B.R. 675 (W.D. Wisc. 2006) and *In re*

Particka, 2006 WL 335018 (Bankr. E.D. Mich. 2006), has determined that the Court will not confirm a debtor's plan, over the objection of a secured creditor, where, as here, a debtor proposes to surrender collateral in full satisfaction of a claim pursuant to 11 U.S.C. §1325(a)(5)(C) and the parties agree that the collateral is worth less than the amount of the debt it secures.

Because the plans in each of these cases have been confirmed, subject to the Court's ruling on this matter, Debtors are directed to file a post-confirmation amendment to comply with the determination of this Court, dismiss the Chapter 13 case, or take other appropriate action.

SO ORDERED, this 12th day of December, 2006.



Mary Grace Diehl
United States Bankruptcy Court Judge