

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
MELISSA K. BLAISING ) CASE NO. 07-11667  
 )  
 )  
Debtor )

**DECISION AND ORDER DENYING CONFIRMATION**

At Fort Wayne, Indiana, on September 6, 2007.

This matter is before the court with regard to confirmation of the debtor's proposed Chapter 13 plan, filed on July 3, 2007, as modified on August 28, 2007. The only creditor adversely affected by the modification is Wells Fargo Acceptance. Pursuant to the court's order of August 31, 2007, notice of the modification and the opportunity to object thereto has been given to Wells Fargo and it has filed an objection. That objection is well taken, and no further proceedings are needed in order to determine the issue presented to the court.

The modification to the debtor's plan classifies Wells Fargo as a secured creditor holding a 910 car claim. See, 11 U.S.C. § 1325(a)(5)(hanging paragraph). The modification surrenders Wells Fargo's collateral in full satisfaction of its claim, without providing for any deficiency in the event the vehicle would sell for less than the amount due. It is this provision which Wells Fargo finds objectionable, contending that it is entitled to assert a deficiency claim should one exist. Although the issue is one which has divided the lower courts, see, In re Roth, 2007 WL 1385383, 2007 Bankr. LEXIS 1647 (Bankr. N.D. Ind. 2007), in the Seventh Circuit there is no longer any controversy. See, In re Wright, 492 F.3d 829 (7th Cir. 2007). A 910 car claimant cannot be compelled to accept the surrender of its collateral in full satisfaction of its claim and is, instead,

entitled to the opportunity to assert a deficiency, should one exist. Id.

Wells Fargo's objection to confirmation is sustained. Confirmation of the debtor's proposed chapter 13 plan, as modified, is DENIED. The debtor shall file any further plan within fourteen (14) days of this date.

SO ORDERED.

/s/ Robert E. Grant  
Judge, United States Bankruptcy Court