

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
LAVONIA ANN GLENN ) CASE NO. 05-11168  
 )  
 )  
Debtor )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on June 9, 2005

The Bankruptcy Code prohibits a chapter 13 debtor from modifying the rights of a creditor whose claim is secured only by a security interest in real property that constitutes the debtor's principal residence. 11 U.S.C. § 1322(b)(2). Because of this, the court is willing to approve stipulations between the trustee and the debtor, which allow the trustee to commence making the regular monthly mortgage payment due such a lienholder prior to confirmation of the plan, without notice to creditors. This allows the mortgage payments to continue unabated consistent with the conception behind § 1322(b)(2). Nonetheless, it is only residential mortgage holders who enjoy this special protection. Creditors whose claims are secured by some other type of property can have their rights modified. Consequently, before the court will authorize some type of pre-confirmation or adequate protection payment to a creditor whose collateral is something other than the debtor's residence, an appropriate motion must be filed and noticed out to creditors. See, Fed.R.Bankr.P. Rule 4001(d); N.D.Ind.L.B.R. B-2002-2(a)(1).

In this chapter 13 case, the debtor and the trustee have submitted an order for pre-confirmation payments on secured debt, and apparently expect the court to approve it without any kind of motion or notice. The motion does not however, contain any type of representation or

allegation that the creditor who will receive payment is secured only by a lien upon the debtor's principal residence. Indeed, the proposed order contains no information whatsoever concerning the nature of the creditor's collateral. As a result, the court will take no action with regard to the proposed order for pre-confirmation adequate protection payments submitted by the trustee and debtor's counsel on June 2, 2005, absent an appropriate motion and notice to creditors.

SO ORDERED.

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