

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JP MORGAN CHASE BANK, NA,)	
Appellant,)	
)	
v.)	No. 3:07-CV-44
)	(Phillips)
LARRY EZELL, et al.,)	
Appellee.)	

And

JP MORGAN CHASE BANK, NA,)	
Appellant,)	
)	
v.)	No. 3:07-CV-53
)	(Phillips)
LARRY EZELL, et al.,)	
Appellee.)	

MEMORANDUM AND ORDER

This matter is before the court on two appeals by appellant JPMorgan Chase Bank, N.A. to orders entered by the United States Bankruptcy Court for the Eastern District of Tennessee.

On March 23, 2006, JPMorgan appealed the order of the Bankruptcy Court overruling its objection to confirmation and holding that the Ezells could surrender their vehicle in full satisfaction of JPMorgan's claim under 11 U.S.C. § 1325(a)(5), as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). On

March 27, 2006, JPMorgan appealed the order of the Bankruptcy Court confirming the debtors' plan. The appeals were transmitted to this court on January 31, 2007. The appeal filed on the March 23, 2006 order was docketed as Civil Case No. 3:07-CV-44. The appeal filed on the March 27, 2006 order was docketed as Civil Case No. 3:07-CV-53. The issue in both appeals is whether the Bankruptcy Court erred in ruling that 11 U.S.C. § 1325(a)(5), as amended by BAPCPA, allows the Ezells to surrender their vehicle in full satisfaction of JPMorgan's claim.

In its supporting brief, JPMorgan contends that this court should reverse the Bankruptcy Court, sustain the objection to confirmation filed by JPMorgan, and find that BAPCPA does not allow the Ezells to surrender JPMorgan's collateral in full satisfaction of its claim based on the Sixth Circuit's decision in *In re Long*, 519 F.3d 288 (6th Cir. 2008). In their appellee's brief, the Ezells agree that *Long* governs the present appeal, and, as a result, they respond that they have no defense to the appeals filed by JPMorgan.

In *Long*, the Sixth Circuit held that when a debtor elects to surrender collateral pursuant to 11 U.S.C. § 1325(a)(5)(C), the creditor is entitled to a deficiency claim for the balance of its lien after disposition of its collateral. *Id.* at 298. In light of the Sixth Circuit's holding in *Long*, the Bankruptcy Court erred in allowing the Ezells to surrender their vehicle in full satisfaction of JPMorgan's claim.

Accordingly, JPMorgan's objection to confirmation of the Chapter 13 plan is hereby **SUSTAINED** in Civil Case No. 3:07-CV-44; the Bankruptcy Court's order confirming the Chapter 13 plan is hereby **REVERSED** in Civil Case No. 3:07-CV-53; and this matter is **REMANDED** to the Bankruptcy Court for proceedings consistent with this order and the Sixth Circuit's rulings in *In re Long*.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge