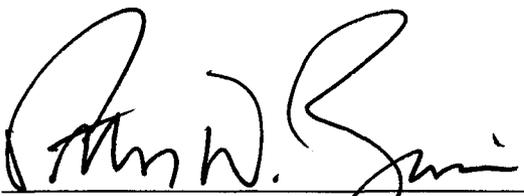


1 There, the court concluded that the language of the "hanging
2 paragraph" did not divest a lender of any potential deficiency
3 claim if the debtor elected to surrender the vehicle. Therefore,
4 a plan that provided for surrender of a vehicle in full
5 satisfaction of the lender's claim could not be confirmed over
6 objection of the lender if the debt owed to the lender exceeded
7 the value of the vehicle. While this Court is not bound to
8 follow a BAP decision on an appeal from another court [Bank of
9 Maui v. Estate Analysis, Inc., 904 F.2d 470 (9th Cir. 1990); In
10 re Zimmer, 313 F.3d 1220, 1225 n.3 (9th Cir. 2002)], this Court
11 finds the BAP's analysis and conclusion in Rodriguez persuasive
12 and elects to follow it.

13 Accordingly, debtors' motion to modify their Chapter 13 plan
14 to provide for surrender of their vehicle in full satisfaction of
15 the lender's claim must be denied. Because of so ruling, the
16 Court need not reach the other objections to confirmation made by
17 Americredit Finance.

18 IT IS SO ORDERED.

19 DATED: SEP - 6 2007

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21 
22 PETER W. BOWIE, Chief Judge
United States Bankruptcy Court

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