

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

In re DONNIE RAY ENNIS AND THELMA) Case No. 07-60738-LYN
MARIE ENNIS,)
)
 Debtors.)
_____)

MEMORANDUM AND ORDER

This matter comes before the Court on the request of Donnie Ray Ennis and Thelma Marie Ennis (“the Debtors) for certification of a direct appeal to the United States Court of Appeals for the Fourth Circuit of an order sustaining the objection of Green Tree Servicing, LLC, (“Green Tree”) to the confirmation of the Debtors’ chapter 13 plan of reorganization. This Court has jurisdiction over this matter. 28 U.S.C. §§ 1334(a).

On August 24, 2007, this Court entered an order sustaining the objection of Green Tree to the chapter 13 plan of the Debtors on the grounds that it improperly provided for the bifurcation of Green Tree’s claim into a secured claim in the amount of \$12,000.00 and an unsecured claim equal to the amount of the secured portion of the claim less \$12,000.00. The plan provides for the payment of the secured portion of the claim at 9% interest over a period of 55 months.

The resolution of the contested matter concerned the issue whether a debtor may, through the provisions of a chapter 13 plan, modify a creditor’s claim that is secured only by an interest, or interests, in a mobile home that is the residence of the debtor when the mobile home is taxed

as personal property by the state or county.

The order involves a question of law as to which there is no controlling decision of the United States Court of Appeals for the Fourth Circuit or of the Supreme Court of the United States. Accordingly, in accordance with 28 U.S.C. § 152(d)(2)(I), the motion will be granted.

ORDER

The Debtors' motion for direct appeal to the United States Fourth Circuit Court of Appeals shall be, and hereby is, granted.

Upon entry of this Memorandum and Order, the Clerk shall forward a copy to W. Calvin Smith, Esq., counsel for Green Tree Servicing, LLC, Stephen E. Dunn, Esq., counsel for the debtor, and Herbert L. Beskin, Esq., chapter 13 trustee.

Entered on this 26th day of October, 2007.



A handwritten signature in black ink, appearing to read "William E. Anderson", is written over a horizontal line. The signature is cursive and extends to the right of the line.

William E. Anderson
United States Bankruptcy Judge

