

Compelling Lenders to Foreclose – Recent Cases

Chapter 13

Brown v. Branch Banking & Trust Co. (In re Brown), 2012 Bankr. LEXIS 4070 (Bankr. S.D. Ga. Sept. 4, 2012) (surrender of property under a Chapter 13 plan does not require a creditor to take affirmative action to foreclose on the property).

Moore v. BAC Home Loan Servicing LP (In re Moore), 2012 Bankr. LEXIS 4069 (Bankr. S.D. Ga. Sept. 4, 2012) (same).

Arsenault v. JP Morgan Chase Bank, N.A. (In re Arsenault), 456 B.R. 627 (Bankr. S.D. Ga. 2011), *aff'd*, 2012 U.S. Dist. LEXIS 128412 (S.D. Ga. Aug. 30, 2012) (Chapter 13 plan cannot force creditor to assume ownership or take possession of collateral).

Ogunfiditimi v. Deutsche Bank Nat'l Trust Co. (In re Ogunfiditimi), 2011 Bankr. LEXIS 2627 (Bankr. D. Md. July 5, 2011) (bankruptcy court lacks authority to compel bank to foreclose).

In re Cormier, 434 B.R. 222 (Bankr. D. Mass. 2010) (mortgagee could not be compelled to take deed in lieu of foreclosure).

Chapter 7

Canning v. Benefit Me., Inc. (In re Canning), 462 B.R. 258 (B.A.P. 1st Cir. 2011) (creditor's failure to foreclose did not violate discharge injunction).