

Alabama State Bar
Bankruptcy & Commercial Law Section
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Bateman and *Bozeman* on Residential Mortgages
Presented by
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In re Bateman, 331 F.3d 821 (11th Cir. 2003).

Facts: Bankruptcy court confirmed the debtor's amended chapter 13 plan, which proposed to pay only a portion of the creditor's mortgage arrearage claim. After plan confirmation, the debtor objected to creditor's claim based on the binding effect of the confirmed plan. Bankruptcy court sustained the objection and disallowed the claim, and the district court affirmed. Mortgage creditor appealed to the circuit court.

Holding: The circuit court reversed the lower courts and allowed the mortgage creditor's claim, but did not dismiss the chapter 13 case. The secured creditor's claim for mortgage arrearage survived the confirmed plan to the extent it was not satisfied in full by payments under the plan.

Rationale: The secured creditor need not do anything during the course of the bankruptcy proceeding because it will always be able to look to the underlying collateral to satisfy its lien.

Takeaways: (1) Listing a debt as "disputed" on a chapter 13 plan does not constitute a constructive objection to claim. (2) Objecting to a claim after chapter 13 plan confirmation will likely be ineffective in reducing the debtor's liability on a claim secured by a residential mortgage. (3) This holding supports the expectation that all parties should notice and rectify discrepancies before confirmation of the plan.

In re Bozeman, 57 F.4th 895 (11th Cir. 2023).

Facts: Mortgage creditor filed an arrearage-only proof of claim while the debtor's amended plan proposed to pay the full balance of the mortgage through the chapter 13 case. Mortgage creditor did not object to the plan, which was confirmed by the bankruptcy court. After plan completion and payment of the mortgage creditor's arrearage-only claim, the bankruptcy court deemed the mortgage creditor's lien satisfied, denied the mortgage creditor's motion for relief, and discharged the debtor. The district court affirmed, and the mortgage creditor appealed to the circuit court.

Holding: The circuit court reversed the lower courts and remanded the case. The mortgage creditor's lien survived the debtor's bankruptcy based on the terms of the mortgage and Alabama law.

Rationale: The circuit court's decision followed directly from *Bateman*, which was not abrogated by *Espinosa*. Also, the circuit court's holding here was similar to the holding in *Dukes*. The anti-modification provision of § 1322(b)(2) forbids modification of the mortgage creditor's substantive rights including its right to receive the full loan balance before the release of its lien.

Takeaways: (1) The circuit court meant what it said in *Bateman*. (2) The best time to notice and rectify discrepancies between the mortgage creditor's claim and the proposed chapter 13 plan is before plan confirmation. (3) While *Bozeman* reiterates the binding effect of a confirmed plan, it also reminds us that the final cure procedures of Bankruptcy Rule 3002.1 do not override the anti-modification provision of § 1322(b)(2).