

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-1917**

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DAIMLERCHRYSLER FINANCIAL SERVICES AMERICAS, LLC,

Creditor - Appellant,

v.

RICHARD VERNON SAMEK,

Debtor - Appellee.

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**No. 07-1918**

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DAIMLERCHRYSLER FINANCIAL SERVICES AMERICAS, LLC,

Creditor - Appellant,

v.

RICHARD VERNON SAMEK,

Debtor - Appellee.

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Appeals from the United States Bankruptcy Court for the Eastern District of Virginia, at Norfolk. Stephen C. St. John, Bankruptcy Judge. (06-72001-SCS)

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Submitted: August 28, 2008

Decided: September 10, 2008

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Before MICHAEL, KING, and DUNCAN, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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Stephen P. Hale, Jacob C. Zweig, HALE, DEWEY & KNIGHT, PLLC, Memphis, Tennessee; M. Richard Epps, Sara A. John, M. RICHARD EPPS, P.C., Virginia Beach, Virginia, for Appellant. Michael J. Heath, Virginia Beach, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

DaimlerChrysler Financial Services Americas, LLC, appeals directly from the bankruptcy court's orders overruling its objection and confirming the Chapter 13 plan of the Debtor, Richard Samek. The bankruptcy court held that the bankruptcy code, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), permits the debtor to surrender undersecured collateral in full satisfaction of a secured claim. In light of our decision in Tidewater Fin. Co. v. Kenney (In Re Kenney), 531 F.3d 312 (4th Cir. 2008), we vacate the bankruptcy court's orders and remand for further proceedings consistent with Kenney. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED