

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In re:

RICHARD LOUIS TUNDAG, JR. and
AUTUMN LEE TUNDAG,

Debtors.

Case No. 26-40556-BRW

Chapter 13

**SUMMARY ORDER RE: MOTION FOR TURNOVER
OF 2015 GMC YUKON AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Before the Court is the *Motion for Turnover* (Doc. No. 21) (the “Motion”) filed by the chapter 13 debtors Richard Louis Tundag, Jr. and Autumn Lee Tundag (the “Debtors”). Also before the Court is the *Motion for Relief from the Automatic Stay* (Doc. No. 24) (the “Stay Relief Motion”) filed by First Federal Savings Bank of Twin Falls (“First Federal”).

The Court held a hearing on both the Motion and the Stay Relief Motion on October 6, 2026, at which hearing the Debtors and First Federal were heard through counsel. At the conclusion of the hearing, the Court took both motions under advisement.

I. FACTS AND ARGUMENTS OF THE PARTIES

The Motion seeks turnover pursuant to 11 U.S.C. § 542(a) of a 2015 GMC Yukon (the “Vehicle”). On September 14, 2026, First Federal, which has a lien on the Vehicle, objected to the Motion. Doc. No. 23. First Federal pointed out that the debtor, Mr. Tundag, Jr., is listed as an owner on the title of the Vehicle but is not an obligor on the promissory note in favor of First Federal for the purchase price paid for the Vehicle. Instead, First Federal noted that Diana R. Tundag is the obligor on the note. The Court understands that Diana R. Tundag is Mr. Tundag’s mother. First Federal further informed the Court that it had repossessed the Vehicle on August 4, 2026, due to payment default on the note. Attached to the objection were the application for the

loan completed by Diana Tundag (Exhibit 1); a loan agreement and consumer credit disclosure statement, again completed by Diana Tundag (Exhibit 2); and a copy of the Certificate of Title for the Vehicle, which lists Diana Ruth Tundag and debtor Mr. Tundag as owners of the Vehicle, separated by an “or” (Exhibit C). It is undisputed that Exhibit C is the current title to the Vehicle.

On the same day First Federal filed its objection to the Motion, it also filed the Stay Relief Motion. Doc. No. 24. First Federal made the same arguments in support of this motion as it did in opposing turnover, notably that Mr. Tundag was not a party to the loan and that he was never considered in determining whether First Federal would extend the loan. First Federal stated that the Debtors are not providing adequate protection for the Vehicle and requested relief from the automatic stay under 11 U.S.C. § 362(d)(1). In addition, First Federal argued that because it is not a creditor of the Debtors, their intended efforts to cram down the repayment terms via a chapter 13 plan is not appropriate.

On September 15, 2026, the Debtors objected to the Stay Relief Motion, contending that First Federal does indeed have a “claim” against the Debtors in this case based upon its lien in the Vehicle. Doc. No. 27. In addition, the Debtors argued that 11 U.S.C. § 362(d)(1) relief is not appropriate because they are willing to commence making adequate protection payments to First Federal upon return of the Vehicle. Finally, the Debtors stated that the Vehicle is important to their reorganization because it is a family vehicle used to transport the family together. At the hearing on these issues, counsel for the Debtors further articulated the need for the Vehicle to be used by the Debtors, or one of them, in working at the upcoming election.

In addition, on September 16, 2026, the Debtors filed a reply to the objection to turnover filed by First Federal. Doc. No. 29. Among other things, the Debtors pointed out that the Stay

Relief Motion seems to acquiesce to the Debtors' conclusion that the Vehicle is property of the bankruptcy estate, because if not, no relief from the automatic stay would be necessary.

The Chapter 13 Trustee (the "Trustee") weighed in on the controversy, articulating a limited objection. Doc. No. 41. Focusing on the adequate protection payments proposed by the Debtors, she noted the proposal was incomplete because the Debtors do not provide an actual amount to be paid to First Federal. The Trustee stated that any such adequate protection payment amount should be tied to the value of the Vehicle and the actual amount it is depreciating in value, and that the payment should be applied to the principal balance on the secured claim held by First Federal. Otherwise, the Trustee took no position on the competing motions.

Thereafter, on October 2, 2026, four days before the hearing, First Federal filed a brief in opposition to the Motion in which it more fully developed its arguments and cited various authorities. Doc. No. 42. At bottom, as explained by First Federal, the issue for the Court is whether in a chapter 13 case "a stranger to a loan [may] invoke the turnover power to take collateral securing someone else's debt." *Id.* at 2. In answering this question in the negative, First Federal argued: (1) this turnover motion must be an adversary proceeding under Federal Rule of Bankruptcy Procedure 7001; (2) "bare legal title" does not support a claim for turnover under 11 U.S.C. § 542 because the bankruptcy estate's interest is "genuinely disputed" (*Id.* at 9); (3) the Debtors may not cram down First Federal's debt as proposed in the chapter 13 plan because the Debtors are not obligated on the loan; and (4) if turnover is ordered it must be "strictly conditioned" to provide for adequate protection. *Id.* at 2-3. In support of its position, First Federal relies on *Guevarra v. Whately (In re Guevarra)*, 638 B.R. 120, 124 (9th Cir. BAP 2022), contending the case is "nearly on point" on the issue of whether the Vehicle should be

turned over and demonstrates this Court should deny the Motion's turnover request. *Id.* at 11. Moreover, First Federal cited the Court to *Washington v. General Motors Acceptance Corp. (In re Washington)*, 137 B.R. 748, 750 (Bankr. E.D. Ark. 1992) for the proposition that a "stranger" to the loan documents may not sustain an action for turnover or modify the rights of the secured creditor. *Id.* at 13. Importantly, First Federal acknowledged that it had not yet sold the Vehicle following repossession prior to the Debtors' bankruptcy filing. *Id.* at 21.

In their response, filed one day after First Federal's memorandum, the Debtors took issue with First Federal raising many other arguments than it had in its original objection to the Motion.¹ Doc. No. 43. Moreover, the Debtors rely on Idaho law providing that a party listed on an Idaho vehicle title is determinative as to whether the vehicle is property of the bankruptcy estate, citing *In re Bill*, 529 B.R. 779 (Bankr. D. Idaho 2015), among other authorities. The Debtors also contend that despite First Federal's arguments, it is a creditor of the Debtors, citing *In re Hoffman*, 538 B.R. 57 (Bankr. D. Idaho 2015), along with other cases. Additionally, the Debtors pointed to 11 U.S.C. § 542(a), which allows a court to order turnover if the debtors may exempt the property under 11 U.S.C. § 522, which the Debtors have done. Finally, the Debtors accepted the Trustee's proposal for adequate protection, if ordered, comprising of adequate protection payments of one sixtieth of the Vehicle's value per month, applied entirely to the principal balance of the secured claim.

¹ Indeed, the Court is reluctant to entertain such additional arguments filed just a few days prior to the hearing and after the objection deadline as well as the additional briefing filed after the hearing as will be discussed below. As they may be easily disposed of, the Court addresses them herein, although the Debtors are correct that the Court may disregard the late-filed arguments altogether.

Although the motions were taken under advisement at the conclusion of the hearing on October 6, 2026, First Federal filed a post-hearing reply to the Debtors' response on October 9, 2026. Doc. No. 46.

II. LAW AND ANALYSIS

As argued by the Debtors, *In re Bill* and *In re Hoffman* are directly on point and, when applied, provide the appropriate result in this case with respect to the Motion. In short, turnover of the Vehicle to the Debtors is appropriately ordered; and in turn, adequate protection must be provided to First Federal. Moreover, because the Court is ordering adequate protection to be paid in this case, the Stay Relief Motion is denied because 11 U.S.C. § 362(d)(1) is not satisfied.

Upon the filing of a bankruptcy petition, a bankruptcy estate is created that is broadly composed of "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a); *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 204 (1983); *Hopkins v. Frazier (In re Tews)*, 502 B.R. 566, 569 (Bankr. D. Idaho 2013). State law generally defines what property interests are included within a particular bankruptcy estate. *Butner v. United States*, 440 U.S. 48, 54 (1979).

This Court has regularly addressed Idaho law related to vehicles titled in Idaho, including how and when those vehicles become property of the estate. An example of one of these occasions is found in *In re Bill*, 529 B.R. 779 (Bankr. D. Idaho 2015). In that case, the Court, summarizing a list of its prior cases, observed:

[T]he Court has held, under the Idaho scheme, that an individual listed on a vehicle's Idaho certificate of title on the date of the filing of a bankruptcy petition *is conclusively deemed to be the owner of the vehicle*. *In re Woods*, 386 B.R. 758, 762 (Bankr. D. Idaho 2008) (citing *Hopkins v. Shradley (In re Shradley)*, 03.1 IBCR 7, 8 (Bankr. D. Idaho 2003) and *Hopkins v. Brasseux (In re Saunders)*, 08.1 IBCR 16, 17 (Bankr. D. Idaho 2008)). And if a vehicle title certificate lists multiple owners of a vehicle, *as indicated by the use*

of an “or” on the title certificate, each of those listed individuals is deemed to be an owner of the vehicle, and if one of the listed owners fields a bankruptcy petition, the vehicle becomes property of the bankruptcy estate without regard to which of the owners paid the purchase price of the vehicle. In re Saunders, 08.1 IBCR 17.

Id. at 783 (emphasis added).

It is undisputed here that Mr. Tundag is listed on the title to the Vehicle with an “or” between his name and that of his mother, Diana Tundag. Based on Idaho law and this Court’s consistent application of that law, the Vehicle is property of the bankruptcy estate regardless of who paid the purchase price of the vehicle and regardless of who is named on the loan documents secured by the Vehicle.

Having determined that the Vehicle is property of the bankruptcy estate, the issue then becomes whether turnover is appropriately ordered. Turnover is covered by 11 U.S.C. § 542(a). That section provides:

. . . an entity, other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

11 U.S.C. § 542(a).

In this case, the Debtors have claimed an exemption in the Vehicle (*see* Doc. No. 1 at 18) and have asserted that the Vehicle is not of inconsequential value or benefit to the estate because the Vehicle is used as the family vehicle and will be necessary for future work to assist the reorganization plan. As such, turnover is appropriately ordered under 11 U.S.C. § 542(a).

In turn, because turnover is appropriate, adequate protection must follow to protect the interests of First Federal during the bankruptcy case. The Court is persuaded that the Trustee’s proposal for adequate protection—as has been accepted by the Debtors—is reasonable. The

parties are directed to confer about the details of adequate protection payments to be made and the timing of those payments, and are directed, as soon as practicable, to file a stipulation with the Court detailing all relevant terms. In addition, the Debtors shall provide to First Federal evidence that the Vehicle is properly insured. To the extent the parties are unable to reach a consensus on these issues, the parties should alert the Court to this impasse and set the matter for a prompt hearing to facilitate entry of an appropriate order.

Having determined the Vehicle is property of the bankruptcy estate and turnover is required provided there is appropriate adequate protection provided to First Federal, the Court must now address First Federal's claims that it is not a creditor in this case.

In re Hoffman, 538 B.R. 57 (Bankr. D. Idaho 2015) provides the appropriate analysis and outcome. In that chapter 13 case, the debtor, prepetition, took title to real property owned by her parents, and subject to various liens securing debts of which the parents were the obligors. *Id.* at 59. In addressing whether the parents' creditors with a lien on property of the estate were creditors in the debtor's bankruptcy case, despite not having a claim directly against the debtor, the Court began with the broad definition of a "claim" in bankruptcy under 11 U.S.C. § 101(5). *Id.* at 61. The Court stated that "nonrecourse" creditors, like the parents' creditors, *do* have a claim in the bankruptcy case because those creditors have rights against the property owned by the debtor, even if they do not have recourse as against the debtor, individually. *Id.* at 62. Summarizing its prior holdings, and those of other courts on these issues, the Court stated: "[t]he collective import of these Code provisions is that an entity that is owed a debt that is secured by the debtor's property on the date of the filing of the bankruptcy petition is a creditor, holds a claim, and may file a proof of claim in that bankruptcy case." *Id.*

Applying these principles, First Federal is a creditor in this bankruptcy case with a claim even though the Debtors are not obligors under the promissory note. First Federal's arguments to the contrary are not persuasive. As briefly explained below, the other authorities and Rule cited by First Federal in its memorandum, or the post-hearing brief for that matter, do not compel a different result.

First, First Federal's suggestion that the Motion must be an adversary proceeding under Federal Rule of Bankruptcy Procedure 7001 is not correct. That Rule provides which actions must be brought as adversary proceedings. Pursuant to Rule 7001(a), an adversary proceeding is required if the action seeks "to recover money or property—*except* a proceeding to compel debtor to deliver property to the trustee, *a proceeding by an individual debtor to recover tangible personal property under § 542(a)*, or a proceeding under § 554(b), § 725, Rule 2017, or Rule 6002." FED. R. BANKR. P. 7001(a) (emphasis added). Because this case undoubtedly falls within the exception to the Rule (*i.e.* the Debtors seek to recover tangible personal property (the Vehicle) under 11 U.S.C. § 542(a)), this matter need not be an adversary proceeding.

Turning to the case law principally relied upon, *In re Guevarra* is of no help to First Federal, despite its assertions in its briefing. To begin, the case was governed by California law rather than Idaho law and dealt with real property, rather than a vehicle. Further, the case addressed a claim of exemption, rather than a determination of a turnover motion. For these reasons, this case is distinguishable and not persuasive on the issues before the Court. To the extent that First Federal cites *In re Guevarra* for the proposition that, pursuant to 11 U.S.C. § 541(d), where a debtor holds only legal title at the commencement of the case, only that legal title comes into the bankruptcy estate, the Court acknowledges the statutory text and has

considered it in deciding this matter. Despite this Code provision, Idaho law provides that title to a vehicle does not limit Mr. Tundag's interest to merely a "legal title," as discussed above.

In re Washington is also of no help to First Federal. Again, like *In re Guevarra*, *In re Washington* is applying different law (*i.e.* Arkansas law). Moreover, notably, the father who had purchased a vehicle for the debtor to use in that case was the only person on the title to the vehicle. *See In re Washington*, 137 B.R. at 749 ("Title to the vehicle is in [father's] name."). Even so, the court in that case determined that the debtor "ha[d] sufficient interest in the vehicle such that her interest . . . is property of the estate pursuant to 11 U.S.C. § 541(a)." *Id.* at 749-50. That court ultimately denied a turnover motion and critically commented on modification of the creditor's rights in the chapter 13 plan based on the fact that the debtor was not a party to the loan *and* was not on title to the vehicle. This case is distinguishable due to the fact that Mr. Tundag *is* on title to the Vehicle. That fact along with the clear pronouncements in Idaho bankruptcy cases provides the appropriate outcome in this case, regardless of the analysis of *In re Washington*.

III. CONCLUSION AND ORDER

For the foregoing reasons, turnover of the Vehicle is appropriate, and the Court denies the Stay Relief Motion given its conclusion that adequate protection payments are to begin upon turnover. In so holding, the Court makes no findings on confirmation issues. To the extent there are objections to confirmation based on the treatment proposed, the Court will take up those matters in conjunction with the hearing on confirmation of the chapter 13 plan proposed in this case. Accordingly,

IT IS HEREBY ORDERED that the Motion is **GRANTED**. First Federal is ordered to turnover the Vehicle to the Debtors. First Federal's objections have been fully considered and

are **OVERRULED**. The parties are to meet and confer regarding appropriate adequate protection payments upon turnover and file a stipulation with the Court detailing the terms of the adequate protection payments to be made.

IT IS FURTHER HEREBY ORDERED that the Stay Relief Motion is **DENIED**.



DATED: October 21, 2026

A handwritten signature in black ink, appearing to read "Brent R. Wilson". The signature is written in a cursive, flowing style.

Brent R. Wilson
U.S. Bankruptcy Judge