

**CREDIT UNION ISSUES IN CHAPTER 13 CASES**

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**Cross-Collateralization**

Multiple Assets collateralizing one or more Loans

Type

A Single Asset to collateralize two or more Loans




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**Cross-Collateralization**

UCC 9-204

UCC Article 9  
revised in 2001

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- “You are giving us a security interest in [property].”
- “The security interest secures this loan and any other loans.”
- “Collateral securing other loans will also secure this loan.”
- “You pledge as security all joint and individual deposit accounts you have now and in the future.”

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**Example #1**

|   |   |
|---|---|
| <br>01/01/2015 | Security interest in shares/deposits in CU.<br>Security interest in 2012 Nissan Altima. |
| <br>01/01/2017 | Security interest in shares/deposits in CU.   |

Does the car secure signature loan?

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### Example #2



01/01/2015

- Security interest in shares/deposits in CU.
- Security interest in 2012 Nissan Altima.
- Security interest secures this loan and all other loans at CU.



01/01/2017

- Security interest in shares/deposits in CU.
- Collateral securing other loans at CU also secures this loan.

Does the car secure the signature loan?

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### Example #3



01/01/2012

- Security interest in shares/deposits in CU.
- Collateral securing other loans at CU also secures this loan.



01/01/2015

- Security interest in shares/deposits in CU.
- Security interest in 2012 Nissan Altima.
- Security interest secures this loan and all other loans including credit card loans that you owe now or in the future.



01/01/2017

- Security interest in shares/deposits in CU.
- Collateral securing other loans at CU also secures this loan.

Does the car secure the signature loan?  
Does the car secure the credit card debt?

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### Example #4



Car loan 01/01/2015

- Security interest in shares/deposits in CU.
- Security interest in 2012 Nissan Altima.
- Security interest secures this loan and all other loans at CU.
- Collateral securing other loans at CU also secures this loan.



Car loan 01/01/2017

- Security interest in shares/deposits in CU.
- Security interest in 2006 Lexus.
- Security interest secures this loan and all other loans at CU.
- Collateral securing other loans at CU also secures this loan.

If Nissan loan is paid off, can CU still look to the Nissan as security for the Lexus loan?

If Nissan loan is paid off, must CU release its lien?

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### Proof of Claim Issues

|  |  |   |
|--|--|---|
| <p style="text-align: center;"><b>Loan #101</b></p> <p>01/01/2012 signature loan<br/>16% interest<br/>Balance: \$2,000</p> | <p style="text-align: center;"><b>Loan #102</b></p> <p>01/01/2015 car loan<br/>7% interest<br/>Balance: \$9,000<br/><br/>Car secures all 3 loans</p> | <p style="text-align: center;"><b>Loan #103</b></p> <p>01/01/2019 credit card<br/>13% interest<br/>Balance: \$1,500</p> |
|--|--|---|

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### Proof of Claim Issues

- Single claim vs separate claim for each account
  - Internal accounting issues
    - Amount of secured claim
      - Arrearage amounts
      - Documentation
    - Amended claims



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### Proof of Claim Suggestion

|   |   |   |
|---|---|---|
| <p style="text-align: center; color: red;"><b>PROOF OF CLAIM #1</b></p> <p style="text-align: center;"><b>Loan #101</b></p> <p>01/01/2012 signature loan<br/>16% interest<br/>Balance: \$2,000<br/><br/>Secured \$2,000 (cross-collateralized by car, Loan # 102)</p> | <p style="text-align: center; color: red;"><b>PROOF OF CLAIM #2</b></p> <p style="text-align: center;"><b>Loan #102</b></p> <p>01/01/2015 car loan<br/>7% interest<br/>Balance: \$9,000<br/>Secured: \$9,000<br/>Car secures all 3 loans; Value is \$12,000</p> | <p style="text-align: center; color: red;"><b>PROOF OF CLAIM #3</b></p> <p style="text-align: center;"><b>Loan #103</b></p> <p>01/01/2019 credit card<br/>13% interest<br/>Balance: \$1,500<br/>Secured: \$1,000 (cross-collateralized by car, Loan #102)</p> |
|---|---|---|

TIPS: Attach documentation; include narrative description; attach worksheet showing calculations of secured amounts

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### Plan Treatment Issues

- Local plan form variations
  - Local rules/custom
    - Need to treat each claim
      - Direct payment
      - Valuation
    - 910-claims
    - Surrender



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### Valuation in Plan

**Request for Valuation:**

| Name of creditor      | Estimated amount of creditor's total claim | Collateral                         | Value of collateral | Amount of claims senior to creditor's claim | Amount of secured claim |
|-----------------------|--|------------------------------------|---------------------|---|-------------------------|
| Credit Union Claim #2 | \$9,000                                    | 2012 Nissan                        | \$12,000            | \$0   | \$9,000                 |
| Credit Union Claim #1 | \$2,000                                    | 2012 Nissan (cross-collateralized) | \$12,000            | \$9,000                                     | \$2,000                 |
| Credit Union Claim #3 | \$1,500                                    | 2012 Nissan (cross-collateralized) | \$12,000            | \$11,000                                    | \$1,000                 |

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### Valuation in Plan

**Request for Valuation:**

| Name of creditor      | Estimated amount of creditor's total claim | Collateral                         | Value of collateral | Amount of claims senior to creditor's claim | Amount of secured claim |
|-----------------------|--|------------------------------------|---------------------|---|-------------------------|
| Credit Union Claim #2 | \$9,000                                    | 2012 Nissan                        | \$8,000             | \$0   | \$8,000                 |
| Credit Union Claim #1 | \$2,000                                    | 2012 Nissan (cross-collateralized) | \$8,000             | \$8,000                                     | \$0                     |
| Credit Union Claim #3 | \$1,500                                    | 2012 Nissan (cross-collateralized) | \$8,000             | \$8,000                                     | \$0                     |

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### 910-Claim

**Secured claims excluded from 11 U.S.C. § 506.**

| Name of creditor      | Collateral  | Amount of claim |
|-----------------------|-------------|-----------------|
| Credit Union Claim #2 | 2012 Nissan | \$9,000         |

**Request for Valuation**

| Name of creditor      | Estimated amount of creditor's total claim | Collateral                         | Value of collateral | Amount of claims senior to creditor's claim | Amount of secured claim |
|-----------------------|--|------------------------------------|---------------------|---|-------------------------|
| Credit Union Claim #1 | \$2,000                                    | 2012 Nissan (cross-collateralized) | \$12,000            | \$9,000                                     | \$2,000                 |
| Credit Union Claim #3 | \$1,500                                    | 2012 Nissan (cross-collateralized) | \$12,000            | \$11,000                                    | \$1,000                 |

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### 910-Claim

**Secured claims excluded from 11 U.S.C. § 506.**

| Name of creditor      | Collateral  | Amount of claim |
|-----------------------|-------------|-----------------|
| Credit Union Claim #2 | 2012 Nissan | \$9,000         |

**Request for Valuation**

| Name of creditor      | Estimated amount of creditor's total claim | Collateral                         | Value of collateral | Amount of claims senior to creditor's claim | Amount of secured claim |
|-----------------------|--|------------------------------------|---------------------|---|-------------------------|
| Credit Union Claim #1 | \$2,000                                    | 2012 Nissan (cross-collateralized) | \$8,000             | \$9,000                                     | \$0                     |
| Credit Union Claim #3 | \$1,500                                    | 2012 Nissan (cross-collateralized) | \$8,000             | \$9,000                                     | \$0                     |

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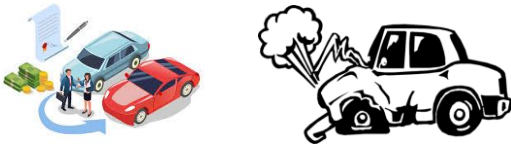
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### Partial Surrender

Evolve Fed. Credit Union v. Barragan-Flores (In re Barragan-Flores), 984 F.3d 471 (5th Cir. 2021)



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### Deposit Accounts

#### Security interest under UCC -

“You pledge as security all joint and individual deposit accounts you have now and in the future.”



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### FRBP Service on Credit Unions

#### Rule 7004(b)(3):

- Service on business entity
- First class mail
- To agent authorized to accept service of process

#### Rule 7004(h):

- Service on “insured depository institution”
- Certified mail
- To officer

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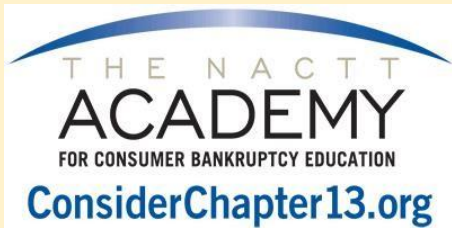
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### Q & A



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