Honorable Mike K. Nakagawa
United States Bankruptcy Judge

Entered on Docket
December 30, 2025

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

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In re:	)	Case No.: 24-11955-MKN
	)	Chapter 13
BRANDON CLAYBOUGH PEGG and JAMI DEL PEGG,	)	
	)	Date: November 12, 2025
Debtors.	)	Time: 2:30 p.m.

ORDER ON EMERGENCY MOTION TO VEST TITLE TO SURRENDERED PROPERTY[1]

On November 12, 2025, the court heard the Emergency Motion to Vest Title to Surrendered Property ("Emergency Motion") brought in the above-referenced Chapter 13 proceeding. The appearances of the parties and counsel by telephone were noted on the record. After arguments were presented, the matter was taken under submission.

BACKGROUND

On April 23, 2024, Brandon Claybough Pegg and Jami Del Pegg ("Debtors") filed a joint Chapter 13 petition. Debtors' living address shown on the petition is 2810 Lochbroom Way, Henderson, Nevada 89044 ("Lochbroom Way Property"). On their property Schedule "A/B," Debtors listed a single-family home located at 5621 N. Bonita Vista Street, Las Vegas, Nevada

[1] In this Order, all references to "ECF No." are to the numbers assigned to the documents filed in the above-captioned case as they appear on the docket maintained by the clerk of the court. All references to "Section" are to the provisions of the Bankruptcy Code, 11 U.S.C. §§ 101-1532, unless otherwise indicated. All references to "NRS" are to provisions of the Nevada Revised Statutes. All references to "Bankruptcy Rule" are to the Federal Rules of Bankruptcy Procedure.

89149-0000, having a value of $758,700 ("Bonita Vista Property"). On their exemption Schedule "C," the Debtors claimed a Nevada homestead in the Bonita Vista Property at "100% of fair market value" up to the homestead limit.[2] On their secured creditor Schedule "D," Debtors listed Penny Mac Loan Services, LLC ("PennyMac"), as holding a loan with a balance of $586,352 ("PennyMac Loan") secured by a lien against the Bonita Vista Property.[3] On their unsecured creditor Schedule "E/F," Debtors listed non-priority debts of $517,307, of which $249,760 are student loans.[4] Debtors list no executory contracts and unexpired leases on their Schedule "G."[5] On their monthly income and monthly expense Schedules "I" and "J," Debtors showed net monthly income of $930.[6]

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[2] Because the Debtors were not residing at the Bonita Vista Property on the Chapter 13 petition date, it is not clear whether they could claim a Nevada homestead exemption. See NRS 115.020 and Greene v. Savage (In re Greene), 583 F.3d 614, 621 n.5 (9th Cir. 2009). It does not appear, however, that a timely objection was raised to their homestead claim after their meeting of creditors was concluded on May 28, 2024. Under Bankruptcy Rule 4003(b)(1), the deadline to object to exemptions expired on June 27, 2024. No party in interest objected to the Debtors' exemptions. Under Section 522(l), the Bonita Vista Property arguably was exempt under bankruptcy law.

[3] Because the Debtors were not residing at the Bonita Vista Property on the Chapter 13 petition date but instead were living in the Lochbroom Way Property, it does not appear that the Bonita Vista Property was the Debtors' principal residence on the Chapter 13 petition date. As a result, the so-called "anti-modification" language of Section 1322(b)(2) would not have applied to prohibit the Debtors' proposed Chapter 13 plan from including a provision modifying the rights of PennyMac on its secured claim.

[4] At the time the Debtors filed their petition, an individual could have noncontingent, liquidated debts of less than $2.75 million to be eligible for Chapter 13 relief under Section 109(e). After June 21, 2024, such unsecured debts could be less than $465,275, and secured debts could be less than $1,395,875. On the April 23, 2024 petition date, Debtors were within the Chapter 13 eligibility limits then in effect under Section 109(e).

[5] Although the Debtors lived at the Lochbroom Way Property on the Chapter 13 petition date, it does not appear that they were on title to the residence, nor does it appear that they had an unexpired lease on the Lochbroom Way Property on the petition date.

[6] Because the Debtors had significant net monthly income, seeking bankruptcy relief under Chapter 7 rather than Chapter 13 may have led to an objection under Section 707(b)(1). Under that provision, a Chapter 7 proceeding may be dismissed or converted to Chapter 13 or Chapter 11 if the individual debtor has primarily consumer debts and granting Chapter 7 relief "would be an abuse of the provisions of this title." Under Section 707(b)(2)(A)(i), an abuse is

On April 23, 2024, a Notice of Chapter 13 Bankruptcy Case ("Bankruptcy Notice") was served on all creditors and parties in interest, setting a meeting of creditors to take place on May 28, 2024. The Bankruptcy Notice also announced a deadline of July 29, 2024, for parties to file objections to entry of a Chapter 13 discharge or to seek a determination of dischargeability of debt under Sections 523(a)(2) and 523(a)(4).

On May 7, 2024, Debtors filed a proposed Chapter 13 plan that included the Debtors' request to surrender the Bonita Vista Property ("Plan #1").[7] (ECF No. 15).[8]

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presumed to exist if an individual debtor's current monthly income over a 60-month period would permit a significant distribution on allowed unsecured claims in a possible Chapter 13.

[7] Section 1.2 of Plan #1 provides that the plan "does not include nonstandard provisions in Section 9.2." Section 9 of Plan #1 is entitled Nonstandard Plan Provision. Section 9.1 specifies as follows: "Nonstandard plan provisions will be effective only if §1.2 of this plan indicates that this plan includes non-standard provisions. Any nonstandard provision placed elsewhere in this plan is void." (Emphasis added.) Section 4.7 of Plan #1 provided for the Bonita Vista Property to be surrendered to PennyMac, as well as to Salal Credit Union and VA Loan Services. Because the Debtors have above-median income, Plan #1 provides for Chapter 13 payments to be made for 60 months. See 11 U.S.C. §1325(b)(4)(A)(ii). Section 8.3 of Plan #1, entitled "Vesting," specifies that "Any property of the estate scheduled under §521 shall vest in the Debtor upon confirmation of this plan." (Emphasis added.) This vesting provision is consistent with Section 1327 that addresses one of the effects of confirming a Chapter 13 plan: "Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor." 11 U.S.C. § 1327(b) (emphasis added).

[8] As discussed at note 3, supra, it appears that the Bonita Vista Property was not the Debtors' principal residence on the Chapter 13 petition date. As a result, the anti-modification restriction under Section 1322(b)(2) did not apply. To confirm a proposed Chapter 13 plan, allowed secured claims must be treated in one of three ways: (1) acceptance by the secured creditor; (2) cramdown treatment; or (3) surrender of the property collateral. See 11 U.S.C. §1325(a)(5)(A, B, and C). In Modified Plan #3, Debtors proposed only to surrender the Bonita Vista Property as permitted by Section 1325(a)(5)(C), but did not propose to vest the Bonita Vista Property to the scheduled secured creditors, including PennyMac, as permitted by nonstandard Section 1322(b)(9). The provisions addressing confirmation of a Chapter 13 plan clearly distinguish between "Surrender" permitted by Section 1325(a)(5)(C) and "Vesting" permitted by Section 1322(b)(9).

On August 20, 2024, a stipulation between the Debtors and PennyMac was filed with the court terminating the automatic stay with respect to the Bonita Vista Property ("RAS Stipulation"). (ECF No. 33).

On August 22, 2024, an order was entered approving the RAS Stipulation ("RAS Order"). (ECF No. 34).

On October 2, 2024, an order was entered confirming the Debtors' proposed Plan #1 ("Plan Confirmation Order").[9] (ECF No. 36).

On August 6, 2025, Debtors filed a proposed modified Plan #2 along with amended monthly income and monthly expense Schedules "I" and "J." (ECF Nos. 45 and 47). On Schedules "I" and "J," Debtors showed net monthly income of $409.[10]

On August 7, 2025, Debtors filed a proposed Modified Chapter 13 Plan #3 and request to Surrender Collateral ("Modified Plan #3")[11] that was noticed to be heard on September 11, 2025. (ECF Nos. 50 and 51).[12]

On August 8, 2025, PennyMac commenced a judicial foreclosure action with respect to the Bonita Vista Property in the Eighth Judicial District Court, Clark County, Nevada ("State

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[9] The July 29, 2024, deadline for creditors to object to discharge or to dischargeability of debt had elapsed with no objections being filed. To obtain a Chapter 13 discharge under Section 1328(a), Debtors therefore must complete payments required under a confirmed Chapter 13 plan.

[10] Section 4.7 of Plan #2 provided for the Bonita Vista Property to be surrendered to PennyMac, as well as to Salal Credit Union and VA Loan Services. Because the Debtors still have above-median income, Plan #2 provides for Chapter 13 payments to be made for 60 months. The difference in net monthly income from the Debtors' original Schedules "I" and "J" and the amended schedules appears to be attributable primarily to increased housing, utility, medical, and dental expenses.

[11] Section 4.7 of Plan #3 also provides for the Bonita Vista Property to be surrendered to PennyMac, as well as to Salal Credit Union and VA Loan Services. Because the Debtors still have above-median income, Plan #3 also provides for Chapter 13 plan payments to be made for 60 months.

[12] Like Plan #1, Modified Plan #3 included identical language in Sections 1.2 specifying that the Debtors' Chapter 13 plan does not include any nonstandard provisions. See discussion at note 7, supra. Additionally, Section 8.3 of Modified Plan #3, like Modified Plan #1, specifies that property of the bankruptcy estate shall vest in the Debtors upon plan confirmation. Id.

Court"), styled as PennyMac Loan Services, LLC v. Brandon C. Pegg, et al., denominated Case No. A-25-925199-C ("Foreclosure Action"). (ECF No. 72, infra, at Ex. "6").

On August 26, 2025, in connection with the Foreclosure Action, PennyMac recorded a notice of lis pendens against the Bonita Vista Property, providing public notice of its request for a judicial declaration of its interest in the real property as well as to foreclose on its interest. (ECF No. 72, infra, at Ex. "7").

On August 29, 2025, an order was entered granting the motion of Debtors' bankruptcy counsel to withdraw from further representation. (ECF No. 65).

On September 3, 2025, Debtors, *in pro se*, filed the instant Emergency Motion along with an attached "Exhibit Index."[13] (ECF No. 66).

On September 15, 2025, an order was entered approving Modified Plan #3 ("Plan Modification Order").[14] (ECF No. 68).

On September 19, 2025, Debtors noticed the Emergency Motion to be heard on October 22, 2025. (ECF No. 70).

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[13] Attached to the Emergency Motion are documents marked as Exhibits "A" through "E." Exhibit A is a copy of debtor Brandon Pegg's "Payment Record to Trustee" with automatic payment transactions dated from May 2, 2024, through August 4, 2025. Exhibit B is a copy of an email dated August 14, 2025, from a Tiffany Frederick at the Las Vegas Metropolitan Police Department to debtor Jami D. Pegg regarding a three-way phone call with PennyMac on June 27, 2025. Exhibit C is a copy of an email dated August 6, 2025, from a Mason Pope at the Las Vegas Metropolitan Police Department to debtor Jami D. Pegg. Exhibit D is a copy of a "Lis Pendens" filing with the Clark County Recorder's Office, dated August 26, 2025, Instrument No. 202508260001879. Exhibit E is a copy of correspondence from the Clark County District Attorney's Office to debtor Jami D. Pegg, dated August 14, 2025.

[14] The record indicates that the Debtors have never sought to retain the Bonita Vista Property through bankruptcy and were not living there when this Chapter 13 petition was filed. It also is clear that the Debtors' student loan obligations constitute nearly half of their unsecured debt. If the Debtors complete payments under a confirmed Chapter 13 plan, a Chapter 13 discharge likely will be entered as soon as practicable under Section 1328(a), but the Chapter 13 discharge generally does not apply to educational loan debts under Section 1328(a)(2) and Section 523(a)(8). Debts encompassed by Section 523(a)(8) are not dischargeable unless repayment "would impose an undue hardship on the debtor and the debtor's dependents…" Proof of undue hardship is required whether the individual debtor seeks bankruptcy relief from student loan debt under Chapter 7, Chapter 13, or Chapter 11.

On September 23, 2025, PennyMac filed an opposition to the Emergency Motion ("Opposition").[15] (ECF No. 72).

On October 7, 2025, Debtors filed in pro se a reply in support of the Emergency Motion ("Emergency Reply").[16] (ECF No. 73).

On October 10, 2025, Debtors filed a supplemental notice regarding state court filings. (ECF No. 74).

On October 22, 2025, the hearing on the Emergency Motion was continued so the parties could attempt to reach a settlement.

On November 10, 2025, Debtors filed a status update reporting that the parties could not reach an agreement to settle. (ECF No. 77).

DISCUSSION

By this Emergency Motion, Debtors request that this court enter an order under Sections 1322(b)(9) and 105(a) vesting in PennyMac title to the Bonita Vista Property effective

[15] Attached to the Opposition are documents marked as Exhibits "1" through "7." Exhibit 1 is a copy of a Grant, Bargain, Sale Deed dated November 3, 2020. Exhibit 2 is a copy of a Note dated November 3, 2020. Exhibit 3 is a copy of a Deed of Trust dated November 3, 2020. Exhibit 4 is a copy of a Modification Agreement dated February 15, 2022. Exhibit 5 is a copy of a Corporate Assignment of Deed of Trust dated April 18, 2024. Exhibit 6 is a copy of a Complaint filed on August 8, 2025, in the Eighth Judicial District Court, Clark County, Nevada, denominated Case No. A-25-925199-C. Exhibit 7 is a copy of a Notice of Pendency of Action dated August 26, 2025 ("Lis Pendens").

[16] Attached to the Emergency Reply are documents marked as Exhibits "A" through "E." Exhibit A is a copy of a transcript generated from a voicemail message dated September 5, 2025, at 9:21 a.m. from a PennyMac representative left for Jami Pegg. Exhibit "B" is a copy of a transcript generated from a voicemail message dated September 5, 2025, at 11:52 a.m. from the same PennyMac representative left for Jami Pegg. Exhibit "C" is a copy of a transcript generated from a voicemail message dated September 8, 2025, at 1:38 p.m., from the same PennyMac representative left for Jami Pegg. Exhibit "D" is a copy of an email message dated September 5, 2025, at 11:55 a.m. from the same PennyMac representative sent to an email address possibly held by the Debtors. Exhibit "E" is a copy of an email message dated September 9, 2025, at 2:08 p.m., from bankruptcy counsel for PennyMac addressed to the Debtors.

immediately.[17] Alternatively, Debtors request that the Emergency Motion resolve any litigation and declare that title to the Bonita Vista Property is held by PennyMac rather than by the Debtors.[18]

Debtors' urgency to have legal title in PennyMac's name is based on events occurring at the Bonita Vista Property after the RAS Order was entered in August 2024 approving the RAS Stipulation that the Debtors had negotiated with PennyMac. Debtors allege a timeline of events that occurred after the RAS Order was entered. In pertinent part, that timeline of events was as follows:

> 2. Dec 2024 – Debtors notify counsel and PennyMac of **illegal criminal occupants**.
> 3. Jan-May 2025 – Multiple calls reporting **unlawful occupancy and police involvement**. No action.
> 4. Apr 2025 – PennyMac files foreclosure, but it is defective and withdrawn.
> 5. July 2025 – Debtors ask counsel to bring the matter to Court. He refused.
> 6. Aug 5, 2025 – **Sixteen-year-old teenager murdered at the property**.
> 7. Aug 6, 2025 – Debtors notify counsel.
> 8. Aug 8, 2025 – Counsel filed for withdrawal and PennyMac refiled foreclosure – on the same day counsel moved to withdraw.
> 9. Aug 29, 2025 – Withdrawal granted; Debtors become pro se.
> 10. Sept 3, 2025 – Debtors file Emergency Motion to Vest.
> 11. Sept 5, 2025 – PennyMac's First Vice President of Litigation, Lallique Bjurstrom, left two voicemails referencing the Motion and pressing Debtors for a consent to judgment *(Exhibits A & B)*. She also followed up by email the same day confirming she has left "a couple voice messages." *(Exhibit D)*.

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[17] Section 1322(b)(9) permits but does not require a proposed Chapter 13 plan to include a provision to "provide for the vesting of property of the estate, on confirmation of the plan or at a later time, in the debtor or another other entity." 11 U.S.C. § 1322(b)(9) (emphasis added). Section 105(a) describes the equitable power of a bankruptcy court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code. 11 U.S.C. § 105(a) (emphasis added).

[18] It is not clear whether the Debtors attempted to record a quitclaim deed to transfer title of the Bonita Vista Property to PennyMac, or whether a quitclaim deed could even address their concerns over liability, if any. Compare In re Rose, 512 B.R. 790, 794 (Bankr. W.D. N.C. 2014) ("Admittedly, two unpublished cases from our sister court…have permitted Chapter 13 debtors to surrender property by quitclaim deed to a mortgage lender absent consent…However, it must be noted that these are unpublished decisions that do not identify a legal basis for their holdings. Notably, the lenders in those cases did not respond or defend against the motions. Thus, while pragmatic, [the unpublished decisions] are of limited precedential value.").

12. Sept 7, 2025 – Debtors served foreclosure lawsuit – their first notification of filing.
13. Sept 8, 2025 – PennyMac's First Vice President of Litigation left a voicemail admitting knowledge **of unlawful occupancy and tying security/police** involvement to withdrawal of the Motion *(Exhibit C)*.

Emergency Reply at 2 (emphasis added). In its Opposition, PennyMac does not dispute the Debtors' alleged timeline or description of events.

Because it is equally undisputed that PennyMac obtained relief from stay in August 2024 on an unoccupied residence but has yet to foreclose, Debtors plead that PennyMac's inaction poses a continuing public safety hazard through acts of unlawful occupancy by strangers occurring at the Bonita Vista Property.[19] See Emergency Reply at 5 ("Each day that title remains with Debtors, the bankruptcy estate bears unnecessary exposure, and public agencies must respond to conditions that are the creditor's responsibility. The Bankruptcy Code does not require debtors or the public to shoulder those risks indefinitely once surrender is complete.") (Emphasis added.).

In response, PennyMac also does not dispute the continuing public safety hazard posed by the unoccupied Bonita Vista Property. It argues, however, that the Emergency Motion cannot be granted because the bankruptcy court lacks legal authority to vest legal title in the subject property to PennyMac without its consent. Despite the Debtors' assertion that the residential lender is responsible for the hazardous conditions at the unoccupied Bonita Vista Property, PennyMac maintains that title remains in the borrowers until foreclosure is completed. It asserts that the RAS Order permitted PennyMac to pursue its non-bankruptcy rights, which includes pursuit of a judicial foreclosure action under Nevada law, rather than nonjudicial foreclosure under the Deed of Trust. See Opposition at Ex. 3. PennyMac commenced the Foreclosure Action on August 8, 2025, see Opposition at Ex. 6, and recorded the Lis Pendens on August 26, 2025. See Opposition at Ex. 7. The Foreclosure Action currently is pending in State Court and

[19] It is not clear whether the Bonita Vista Property, or similar unoccupied residential properties at which unlawful conduct takes place, would constitute a public or private nuisance for which remedies may be available through a civil action.

apparently has been resolved with some of the named co-defendants, but not with the Debtors. Subject to the requirements of Nevada law, PennyMac maintains that eventual completion of the Foreclosure Action will result in a judgment by the State Court authorizing the Debtors' former residence to be sold to a third party.[20]

While the Debtors and PennyMac have a natural desire to minimize liability for any public safety incidents occurring at the Bonita Vista Property,[21] both also appear to have a natural desire to avoid the cost of securing the unoccupied premises until title passes to a third party.[22] To avoid the prospect of liability for further incidents at their unoccupied former residence, the Debtors seek to vest title to the Bonita Vista Property in PennyMac without awaiting the outcome of the Foreclosure Action and subject to judicial foreclosure sale. As authority for the bankruptcy court to order such relief, rather than await a judgment entered by the State Court, Debtors rely on Sections 1322(b)(9) and 105(a). See Emergency Motion at 6,

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[20] If PennyMac pursued a nonjudicial foreclosure under its Deed of Trust, it might have ended up with title to the Bonita Vista Property if there were no acceptable bidders at the foreclosure sale. The Foreclosure Action seeks to conduct a judicial foreclosure sale under NRS 40.430 et seq. At a preliminary hearing on the Emergency Motion, PennyMac indicated that there is a one-year redemption period that must expire before title to the Bonita Vista Property would be transferred to the purchaser on a final basis through a judicial foreclosure sale. To reclaim the property by redemption, the homeowner presumably would have to pay the purchaser the full purchase price plus nominal interest, as well as costs, fees, assessments, and taxes paid. Compare NRS 116.31166(3). PennyMac suggested that until the redemption period expires, uncertainty exists as to whether title to the subject property would be finally removed from the Debtors' name. Because the Debtors describe the Bonita Vista Property as a public safety hazard, it seems unlikely that they would consider asserting any redemption rights to reclaim a former residence that they have not occupied for more than a year.

[21] For the Debtors, any liability claim that arises after they filed their bankruptcy petition likely would not be discharged through completion of a Chapter 13 plan. Section 1305 allows postpetition claims to be filed and allowed, but those claims are limited to certain tax debts arising during the Chapter 13 case as well as consumer debt claims for property or services necessary to the debtor's performance under the Chapter 13 plan. Those types of claims likely would not encompass claims, if any, based on public safety hazards occurring at the Bonita Vista Property after the Chapter 13 proceeding was commenced.

[22] It is unknown whether the Debtors could seek further modification of confirmed Modified Plan #3 to implement monitoring services at the Bonita Vista Property until it is sold through foreclosure sale or to provide for the property to be sold by the Chapter 13 bankruptcy estate.

citing In re Rose, 512 B.R. 790 (Bankr. W.D. N.C. 2014) and In re Watt, 520 B.R. 834 (Bankr. D. Or. 2014); Emergency Reply at 5, citing In re Alexander, 363 B.R. 917 (Bankr. M.D. Fla. 2007).[23] Not surprisingly, PennyMac argues that cases cited by the Debtors are inapplicable to the facts of the instant Chapter 13 proceeding. See Opposition at 5:17 to 9:10 & n.1, also citing In re Rosa, 495 B.R. 522 (Bankr. D. Haw. 2013) and In re Parker, 644 B.R. 805 (N.D. Cal. 2021).[24]

The court having considered the record presented and the legal authorities cited by the parties, together with the arguments presented, concludes that the Emergency Motion must be denied.

The contents of a Chapter 13 plan are prescribed by Section 1322. The mandatory contents of a proposed Chapter 13 plan are set forth in Section 1322(a). See 11 U.S.C. § 1322(a)(1, 2, and 3) ("The plan – shall…").[25] Non-mandatory contents of a proposed Chapter 13

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[23] The record does not reflect that the Debtors ever sought permission to simply record a quitclaim deed to transfer title of the Bonita Vista Property to PennyMac, or whether a quitclaim deed could address their concerns over liability, if any. Compare In re Rose, 512 B.R. at 794 ("Admittedly, two unpublished cases from our sister court…have permitted Chapter 13 debtors to surrender property by quitclaim deed to a mortgage lender absent consent…However, it must be noted that these are unpublished decisions that do not identify a legal basis for their holdings. Notably, the lenders in those cases did not respond or defend against the motions. Thus, while pragmatic, [the unpublished decisions] are of limited precedential value.").

[24] Unfortunately, the Debtors face what appears to be a "zombie mortgage" problem where even if they eventually obtain a Chapter 13 discharge of their personal liability on the PennyMac Loan, they might remain on legal title to a vacant former residence until a foreclosure is completed. See S. Chan and J. Rao, "Dealing with Mortgage Owners Who Won't Foreclose – A Possible Bankruptcy Option," NCLC eReports, July 2014, No. 4 (http://cladv.wssites.com/Apps/E_Reports/ReportView.aspx?f=0b35a5a8-0081-46a3-87dede7ff888f59_20140704.htm#_ftn1) and http://www.nclc.org/about-us/john-rao.html); see also In re Watt, 520 B.R. at 839-40 (citing same). If a foreclosure occurs after a bankruptcy discharge is entered, the Debtors' financial fresh start through bankruptcy may be adversely affected.

[25] The language of Section 1322(a)(4), however, is permissive in its treatment of domestic support obligations that are assigned to a governmental unit. Less than full payment of such claims is allowed as long as the plan provides for all of the debtor's projected disposable income over a 5-year period to be applied to the plan.

plan are set forth in Section 1322(b)(1 through 11) ("Subject to subsections (a) and (c), the plan may…"). In this instance, Debtors confirmed Modified Plan #3 does not include the non-mandatory relief provided by Section 1322(b)(9) that might permit property of the bankruptcy estate to be vested in a non-debtor party. To the contrary, Section 1.2 of Modified Plan #3 specifies that it contains no nonstandard provisions, and Section 9.1 specifies that any nonstandard provision appearing elsewhere in Plan #3 is void. Moreover, Section 8.3 of Modified Plan #3 specifies that scheduled property of the estate shall "vest in the Debtor" upon plan confirmation.

Section 4.6 of confirmed Modified Plan #3 addresses "Surrender of Collateral" but it does not provide for, nor even propose, the vesting of title in property that might be permitted by Section 1322(b)(9). See generally 8 COLLIER ON BANKRUPTCY, ¶1322.13 (Richard Levin & Henry J. Sommer, eds., 16th ed. 2025) ("In some instances, a debtor who no longer wishes to maintain ownership of property may be able to vest title in the holder of a mortgage on the property, at least if the lienholder does not object."). Inasmuch as Section 1322(b)(9) specifically addresses such relief, the general authority to grant equitable relief under Section 105(a) should not supplant that specific provision.[26] Moreover, as previously mentioned, see note 7, supra, Section 1327(b) explicitly dictates that all property of the Chapter 13 estate vests in the debtor unless otherwise provided in the Chapter 13 plan or the plan confirmation order. Nothing in Modified Plan #3 nor in the Plan Modification Order provides for the Bonita Vista Property to vest in PennyMac rather than the Debtors.

Additionally, the cases cited by the Debtors may contain some language useful to their cause, but the outcomes and analyses in those cases do not support the requested relief under the facts of the instant case. In Rose, the confirmed Chapter 13 plan included a provision for the

[26] As previously recited in note 17, supra, Section 105(a) authorizes the bankruptcy court to "issue any order…necessary or appropriate to carry out the provisions" of the Bankruptcy Code. Because Section 1322(b)(9) provides an express, nonstandard remedy for a Chapter 7 debtor to vest property of the estate in another entity, rather than in the debtor under Section 1327(b), the bankruptcy court "may not fashion an alternative remedy utilizing the equitable powers conveyed by § 105(a) to bypass the requirements of the statutory remedy provided." In re Pacific Panorama, LLC, 2024 WL 696226, at *6 (Bankr. D. Nev. Feb. 20, 2024), citing Law v. Siegel, 571 U.S. 415 (2014).

debtors to surrender their residence to the Small Business Administration ("SBA"), but the SBA did not initiate foreclosure proceedings or assert control over the residence. When the debtors filed a motion to quitclaim the residence to the SBA without its consent, the bankruptcy court for the Western District of North Carolina denied the request. Among other things, the court concluded that neither Section 1325(a)(5)(C) nor Section 1322(b)(9) required the SBA to accept title to the residence, that Section 105(a) did not authorize the bankruptcy court to transfer title to the residence without the SBA's consent, that applicable state law (Florida) did not require the SBA to commence foreclosure proceedings, and that Florida law permitted the residence to be quitclaimed to the SBA provided that the SBA did not object.

In Watt, the bankruptcy court for the District of Oregon confirmed a Chapter 13 plan that included a "non-standard" provision under Section 1322(b)(9) to vest title to a certain condominium unit to the debtors' lender, Bank of New York Mellon ("BNYM"), subject to certain homeowners' association ("HOA") assessment liens. BNYM objected to plan confirmation, but the bankruptcy court overruled the objection and confirmed the Chapter 13 plan. On appeal, however, the federal district court reversed the plan confirmation order.[27] The district court acting in its appellate capacity distinguished between the "surrender" of collateral to a secured creditor as permitted for Chapter 13 plan treatment under Section 1325(a)(5)(C) and the "vesting" of property as a method of transferring title to real property as permitted by Section 1322(b)(9). See Bank of New York Mellon v. Watt, 2015 WL 1879680, at *4 (D. Or. Apr. 22, 2015). The district court concluded that vesting title to real property was not a permissible treatment of BNYM's secured claim under Section 1325(a)(5) when vesting under Section 1322(b)(9) is permissible only with consent. Id. at *5-6. In other words, the district court did not recognize another form of forced plan treatment of secured creditors in Chapter 13, i.e., another method of cramdown on secured creditors. To buttress that point, the district court also concluded the broad equitable language of Section 105(a) does not permit a bankruptcy court to create substantive rights not otherwise available. Id. at *7.

[27] The Oregon bankruptcy court issued its plan confirmation decision on October 15, 2014. The Oregon federal district court issued its appellate decision overturning the bankruptcy court's decision on April 22, 2015.

In Alexander, confirmation of a proposed Chapter 13 plan was denied by the bankruptcy court for the Western District of Oklahoma, and the case was dismissed. That decision was appealed to the Bankruptcy Appellate Panel of the Tenth Circuit, which affirmed the decision of the bankruptcy court.[28] Debtors rely on the Alexander decision in making the following argument:

> Under 11 U.S.C. §§ 1322(b) and 105(a), this Court possesses broad equitable authority to issue orders necessary to carry out the provision of the Code and to prevent abuse of process. Courts have recognized that § 105(a) empowers bankruptcy courts to fashion appropriate relief where a secured creditor's refusal to act frustrates the administration of the estate. *See In re Alexander*, 363 B.R. 917, 924 (Bankr. M.D. Fla. 2007) (granting equitable relief to prevent abuse where creditor inaction impeded estate administration).

Emergency Reply at 5. The appellate decision in Alexander, however, makes no reference whatsoever to Section 105(a) and granted no equitable relief with respect to any inaction by a secured creditor or any other party in interest. Likewise, the appellate decision makes no reference to any request to vest property of the estate in a non-debtor party under Section 1322(b)(9).

In Rosa, the confirmed Chapter 13 plan included treatment provisions for City National Bank/Ocwen Loan Service ("CNB") and Franklin Credit Management ("Franklin"). CNB and Franklin were lenders holding first and second mortgages against the Debtor's real property. The real property was worth less than the amount owed. The Chapter 13 plan specifically provided for the debtor's over-encumbered real property to be surrendered to CNB and Franklin under Section 1325(a)(5)(C) and for the real property to be vested in the same lenders under Section 1322(b)(9). The plan specifically provided that upon confirmation, title to the surrendered real property would vest in the secured lenders, and the confirmation order would constitute a deed of reconveyance upon recordation in the county records. 495 B.R. at 523. The secured lenders did not object to the plan treatment or the vesting method used to transfer title to

[28] In the Emergency Reply, Debtors identify the Alexander decision as being issued by the bankruptcy court for the Middle District of Florida. That decision, however, was issued by the Bankruptcy Appellate Panel of the Tenth Circuit on an appeal from an order entered in a Chapter 13 case filed in the Western District of Oklahoma.

the creditors. The bankruptcy court for the District of Hawaii overruled the Chapter 13 trustee's objection to this provision. The court concluded that the secured creditors had notice of the deadline to object to the vesting provision and did not do so. As a result, the court concluded that the secured creditors consented to plan treatment under Section 1325(a)(5)(A) and confirmed the Chapter 13 plan. 495 B.R. 524-25.[29] In the instant case, there is no comparable language in Modified Plan #3 nor the Plan Confirmation Order, and there is no suggestion in the record that PennyMac consents to similar treatment.

In Parker, the debtor's Chapter 13 plan was confirmed, the case remained open, and a discharge order was entered after completion of plan payments. The debtor sought sanctions against her condominium association for violating the automatic stay during the Chapter 13 proceeding and for violation of the discharge injunction after plan payments were completed. The bankruptcy court for the Northern District of California awarded damages for violation of the automatic stay but did not award contempt sanctions for violation of the discharge. On appeal, a secured creditor argued that a certain leasehold interest had been surrendered under the confirmed Chapter 13 plan, thereby eliminating the debtor's ownership rights. On that premise, the secured creditor maintained that the leasehold was no longer property of the estate and that it could assert control over the premises without violating the automatic stay. In its appellate capacity, the district court rejected that premise, observing that '"[S]urrender does not transfer ownership of the surrendered property,'" 644 B.R. at 832, quoting In re Rosa, 495 B.R. at 523-24, and that "Surrender requires that the creditors take some action to exercise their rights against

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[29] The bankruptcy court commented on the quandary faced by financially troubled individuals seeking to escape the burdens of residential property ownership:

> The mortgagor ordinarily cannot compel the mortgagee to foreclose, and the mortgagor cannot convey the property to the mortgagee or anyone else unless the mortgagee/grantee accepts the conveyance.
>
> This poses a serious problem for chapter 13 debtors who own property that is covered by an owners' association, such as a condominium unit, because 'as a matter of law, debtor's personal liability for HOA dues continues postpetition as long as he maintains his legal, equitable or possessory interest in the property and is unaffected by his discharge.

495 B.R. at 523.

the collateral itself." Id. As such rights had not been exercised, the surrender language under the debtor's confirmed Chapter 13 did not eliminate the debtor's legal interest in the leasehold. As a result, the debtor could still seek sanctions for violations of the automatic stay that occurred while the Chapter 13 case was pending.

In short, neither the conclusions reached nor the analyses provided in the cases cited by the parties support the relief requested by the Emergency Motion.[30]

Because the provisions of confirmed Modified Plan #3 are inconsistent with the relief sought by the Emergency Motion, and the cases presented are inapposite, the court concludes that the Debtors' entirely understandable request cannot be granted.

IT IS THEREFORE ORDERED that the Emergency Motion to Vest Title to Surrendered Property brought by the Debtors in the above-captioned Chapter 13 proceeding, Docket No. 66, be, and the same hereby is, **DENIED.**

IT IS FURTHER ORDERED that denial of the instant request is without prejudice to other relief, if any, that the Debtors may seek in any other court of competent jurisdiction.

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[30] See also In re Achinivu, 612 B.R. 860, 865-67 (Bankr. D. N.J. 2020) (discussing, *inter alia*, Chapter 13 forced surrender of real property to lienholders and observing the "crucial factor" of timely objection to proposed treatment); Selene Finance v. Brown (In re Brown), 563 B.R. 451, 455-57 (D.Mass. 2017) (reversing confirmation of Chapter 13 plan that vested real property title in secured creditor over the creditor's objection); HSBC Bank USA v. Zair (In re Zair), 550 B.R. 188, 202-04 (E.D. N.Y. 2016) (reversing confirmation of Chapter 13 plan that non-consensually vested property in secured creditor instead of surrendering property to secured creditor while preserving option to exercise foreclosure remedy).

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