**SO ORDERED.**
**SIGNED this 13th day of September, 2022**

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.**
**PLEASE SEE DOCKET FOR ENTRY DATE.**

**Suzanne H. Bauknight**
**UNITED STATES BANKRUPTCY JUDGE**

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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF TENNESSEE**

In re

LORRAINE STEWART

Debtor

Case No. 3:22-bk-31041-SHB
Chapter 7

**MEMORANDUM AND ORDER**
**ON MOTION TO REDEEM PERSONAL PROPERTY**

Before the Court is the Motion to Redeem Personal Property ("Motion to Redeem") filed on August 16, 2022, through which Debtor seeks to redeem a 2013 Nissan Sentra ("Sentra") for $4,000.86, which is the amount that she asserts is the payoff for the secured debt on the Sentra. [Doc. 16.] Debtor also avers that the NADA Guide values the Sentra at $7,150.00. [*Id*.] Knoxville TVA Employees Credit Union ("Credit Union") responded in opposition to the Motion to Redeem on August 22, 2022, arguing that it filed two proofs of claim reflecting debts secured by the Sentra: the $4,654.76 owed for purchase of the Sentra and $4,435.00 owed pursuant to a cross-collateralization clause in the security agreement for the Sentra. [Doc. 17.] The Credit Union also argues that the NADA Guide values the Sentra at $9,375.00 so that the

entire $9,090.54 obligation owed by Debtor to the Credit Union as of the petition date is fully secured. [Doc. 17.]

Debtor replied to the Credit Union's response ("Debtor's Response") on August 29, 2022 [Doc. 21], arguing that she is an unsophisticated lay person and that she did not understand that there was a cross-collateralization provision in the loan documents that she signed to purchase the Sentra. In the Credit Union's final reply filed on September 1, 2022 [Doc. 23], the Credit Union argues that the cross-collateralization provision is clear and unambiguous so that under Tennessee law, it is enforceable here. At the preliminary hearing held September 8, 2022, at which the Court scheduled an evidentiary hearing for September 20, 2022, counsel for the Credit Union argued that an evidentiary hearing would be unnecessary because the security agreement speaks for itself and is binding under state law.

After careful review of the documents signed by Debtor and applicable state law, including the statutes and cases cited by Debtor, the Court agrees with the Credit Union that further hearing is unnecessary. "[T]he language contained in the dragnet clause is plain and unambiguous such that a layman could comprehend its meaning." *In re Miller*, No. 12-33943, 2015 WL 2208369, at *10 (Bankr. E.D. Tenn. May 1, 2015) (quoting *In re Limka*, 201 B.R. 765, 768 (Bankr. E.D. Tenn. 1996)) (as quoted by Debtor in her August 29, 2022 reply brief [Doc. 21 at p.1]). Because the Motion to Redeem does not provide for payment of "the amount of the allowed secured claim," 11 U.S.C. § 722, the Motion to Redeem must be denied.

In Tennessee, contracts signed by the parties to be bound are "prima facie evidence that the contract contains the true intention of the parties, and shall be enforced as written . . . [.]" Tenn. Code Ann. § 47-50-112(a); *see also ProCraft Cabinetry, Inc. v. Sweet Home Kitchen & Bath, Inc.*, 343 F. Supp. 3d 734, 742 (M.D. Tenn. 2018) ("[T]he people of Tennessee have a strong public policy interest in the favor of upholding contracts."). Although a court's

interpretation of contracts focuses on the intention of the parties to the contract, the parties' intention "is based on the ordinary meaning of the language contained within the four corners of the contract," *84 Lumber Co. v. Smith*, 356 S.W.3d 380, 383 (Tenn. 2011). "It is not the role of courts to rewrite contracts for dissatisfied parties." *St. George Holdings LLC v. Hutcherson*, 632 S.W.3d 515, 526 (Tenn. Ct. App. 2020). Indeed, "[i]t is a bedrock principle of contract law that an individual who signs a contract is presumed to have read the contract and is bound by its contents." *Id.* (quoting *84 Lumber Co.*, 356 S.W.3d at 383).

Absent fraud, an individual who "fails to read the contract or otherwise to learn its contents, . . . signs the same at [her] peril and is estopped to deny [her] obligation, [and she] will be conclusively presumed to know the contents of the contract, and must suffer the consequences of [her] own negligence." *Lott v. Mallett*, No. W2020-01233-COA-R3-CV, 2022 WL 894755, at *12 (Tenn. Ct. App. Mar. 25, 2022) (quoting *Giles v. Allstate Ins. Co.*, 871 S.W.2d 154, 156 (Tenn. Ct. App. 1993) (citations omitted); *see also Kiser v. Wolfe*, 353 S.W.3d 741, 749 (Tenn. 2011) (holding that "when [a party] signs but fails to read the contract or otherwise ascertain its provisions," he would be presumed to know the contents and "cannot claim that he is not bound by [it] because he is ignorant of its provisions"); *Wofford v. M.J. Edwards & Sons Funeral Home Inc.*, 490 S.W.3d 800, 810 (Tenn. Ct. App. 2015) (finding that the customer was presumed to have read the parties' contract and would be bound by its terms absent allegations of fraud but that the mandatory arbitration provision was unenforceable because the customer was not provided with a copy of the arbitration details that were incorporated only be reference into the signed document). To hold that a contracting party is not obligated because she failed to read the contract would make contracts "not worth the paper on which they are written." *St. George Holdings*, 632 S.W.3d at 526 (quoting *84 Lumber Co.*, 356 S.W.3d at 383) (internal quotation marks and citations omitted).

Debtor acknowledges this standard under Tennessee law. [Doc. 21 at pp. 1-2.] She then overlooks the requirement that this Court must "consider the intention of the parties to [a security agreement] to be what the plain language therein declares it to be" [Doc. 21 at p. 2 (quoting *In re Miller*, 2015 WL 2208369, at *10)], by urging the court to find, based on considerations other than the plain language of the agreement, that "there was no 'meeting of the minds' between Debtor and the Credit Union regarding this dragnet clause." [Doc. 21 at p. 2.] Specifically, Debtor argues that she should be relieved from the cross-collateralization clause in the Note and Disclosure Statement ("Note") that she signed on October 26, 2017, because she merely "is a high school graduate without additional education or training in business or the financial world" and because when she purchased the Sentra and financed it through the Credit Union, "[h]er understanding of the terms of the [Note] is embodied on the document's first page, particularly in the Truth in Lending Disclosure portion, which bears her signature." [Doc. 21 at p. 2.] She asserts that she did not understand that the Sentra would be used as security for other debts owed to the Credit Union pursuant to "a provision [that] was buried on the second page of the document[.]" [*Id*. at p. 3.] Debtor also makes the following assertions concerning her lack of knowledge:

> Neither the car dealership nor the Credit Union at any time informed her that the credit card was not an unsecured debt. She found out only years later when she attempted to consolidate various debts with a debt consolidation company. ***At the least***, in this case, the Credit Union at the time of the transaction, either through a dealership representative or through a Credit Union representative, had the obligation to point out the cross-collateralization provision to her and to explain its ramifications.
>
> Notably, there was no disclosure in the place where Debtor signed the loan document to the effect that this dragnet clause existed. There was no place on the second page of the loan document where the unclear cross-collateralization provision was buried for Debtor to initial or check that she acknowledged its existence. There was no Truth in Lending disclosure relative to the dragnet clause. No credit card periodic statement that has been issued over the years by the Credit Union discloses the existence of any security interest. To Debtor's knowledge, the Certificate of Title to the vehicle contains no language relative to the dragnet clause.

[*Id*. at p. 3.]

The Note contains the following prominent warning on page 1 immediately above Debtor's signature:

> **SIGNATURE**: By signing, or otherwise authenticating, as Borrower, you agree to the terms of the Loan Agreement. *If property is described in the "Security" section of the Truth in Lending Disclosure, you also agree to the terms of the Security Agreement.* If you sign, or otherwise authenticate, as "Owner of Property" you agree only to the terms of the Security Agreement. You understand that willfully and deliberately providing incomplete or incorrect information to this Credit Union for the purpose of obtaining credit is a crime and may cause your loan to be in default.
> **CAUTION: IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS CONTRACT BEFORE YOU SIGN IT.**

[Doc. 17-1 (emphasis in italics added).] Debtor signed below this provision as "Borrower," which obligated her under both the Loan Agreement and the Security Agreement, both of which are located on the back of the document. [*Id.*]

The Security Agreement provides as follows, with the reference to the cross-collateral provision in bold and all caps:

> **WHAT THE SECURITY INTEREST COVERS/CROSS COLLATERAL PROVISIONS** – The security interest secures the Loan and any extensions, renewals or refinancings of the Loan. *The security interest also secures any other debts, including any credit card loan, you have now or receive in the future from us and any other amounts you owe us for any reason now or in the future*, except any loan secured by your principal dwelling. If the Property is household goods as defined by the Federal Trade Commission Credit Practices Rule or your principal dwelling, the Property will secure only this Loan and not other loans or amounts you owe us.

[*Id.* at p. 2 (emphasis in italics added).]

This language "is plain and unambiguous such that a layman could comprehend its meaning." *In re Miller*, 2015 WL 2208369, at *10. The provision was clear that by signing the

Note, the Sentra would be held as collateral for any other obligation owed to the Credit Union.[1] Nothing in the law requires the Credit Union or any dealership representative who might be construed to be an agent of the Credit Union to counsel Debtor about the cross-collateral (or any other) provision of the Note. Thus, the Court rejects Debtor's argument that she should not have to include the credit card debt in her calculation of the redemption amount due under § 722.

For these reasons, because the redemption amount proposed by Debtor does not include the cross-collateralized credit card obligation owed to the Credit Union, the Court directs the following:

1. The Motion to Redeem [Doc. 16] is DENIED.

2. The evidentiary hearing scheduled for September 20, 2022, at 10:30 a.m. is STRICKEN.

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[1] Although Tennessee law allows a party to challenge clear and unambiguous contractual provisions, including cross-collateralization provisions or future advance clauses, when the contract was procured by fraud, Tenn. Code Ann. § 47-50-112(a), (b), here, Debtor has not raised any allegation of fraud.