

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

LEIF GAYLORD HERRINGTON and
MERRILL LEIGH HERRINGTON,

Debtors.

Case No. A10-00331-DMD
Chapter 7

**Filed On
8/24/10**

REDEMPTION MEMORANDUM

The debtors seek to redeem a 2009 Toyota Camry Hybrid from Toyota Motor Credit Corporation. They purchased the vehicle on May 7, 2008 for \$32,390.00. The debtors owed Toyota \$34,350.00 as of July 26, 2010. They seek to redeem it by payment of \$22,000.00. The debtors do not want to continue their pre-paid maintenance agreement or their vehicle service agreement through the redemption.

The debtors' attorney, Erik LeRoy, argues that the debtors' offer is generous because Toyota is only entitled to the wholesale or liquidation value of the Camry. I disagree. To redeem collateral under 11 U.S.C. § 722, a debtor has to pay the "amount of the allowed secured claim in full" at the time of redemption. Under 11 U.S.C. § 506(a)(2), a court is to look at the replacement value of the property without deducting the costs of sale or marketing expenses. "[R]eplacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."¹ I find that the replacement value of the vehicle is \$21,744.00 based on the thoughtful expert opinion of Gary Brandt. There is more to consider, however.

¹ 11 U.S.C. § 506(a)(2).

One reason that the replacement value of the car is relatively low is because the debtors have failed to repair their vehicle in violation of their security agreement with Toyota. The debtors apparently maintained collision insurance on the vehicle. With the repairs the debtors were obligated to make for about \$2,200.00, the value of the car would increase \$2,000.00. The debtors should not be able to profit from damaging their car at Toyota's expense while profiting from an insurance claim. I regard it as a form of unjust enrichment. In this case, the replacement value will reflect the value of the vehicle as repaired: \$23,744.00.

DATED: August 24, 2010.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: E. LeRoy, Esq.
A. Sperbeck, Esq.
L. Compton, Trustee
U.S. Trustee

08/24/10