**IN THE UNITED STATES BANKRUPTCY COURT**

**FOR THE NORTHERN DISTRICT OF ALABAMA**

**WESTERN DIVISION**

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| **In re:**  **Click to enter DEBTOR and JOINT DEBTOR,**  **Debtor(s).** |  | **Case No. Case number-JHH**  **Chapter 13** |

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| --- |
| NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST HEARING  Pursuant to Western Division Administrative Order No. 20-01, the court will consider the relief requested in this motion (the "Motion") without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached certificate of service, plus an additional three days for service if any party was served by U.S. Mail.  If you oppose the relief requested in the Motion, then, within the time allowed, you must file a response with the clerk of court electronically (or by hand delivery or mail to the clerk's office at 2005 University Boulevard, Room 2300, Tuscaloosa, Alabama 35401), and you must serve a copy of your response on all appropriate persons. If you file and serve a response within the time permitted, the court will schedule and notify you of a hearing.  If you do not file a response within the time permitted, the court will consider that you do not oppose the relief requested in the Motion; the court may deem admitted the allegations set forth in the Motion; the court will proceed to consider the Motion without further notice or hearing; and the court may grant the relief requested. |

**DEBTOR'S MOTION TO MODIFY CONFIRMED CHAPTER 13 PLAN TO CURE ARREARS ON A LONG-TERM DEBT PROVIDED FOR BY THE PLAN**

The chapter 13 debtor(s) (whether a single debtor or joint debtors, the "Debtor") in the above-captioned bankruptcy case (the "Case") move the court, pursuant to 11 U.S.C. § 1329 and Rule 3015 of the Federal Rules of Bankruptcy Procedure, for entry of an order substantially in the form of the proposed order attached hereto as "Exhibit A" (the "Proposed Order"),[[1]](#footnote-1) approving the below-described modification(s) (collectively, the "Modifications," and each, a "Modification") to the Debtor's confirmed chapter 13 plan (the "Plan"), including, without limitation, the Debtor's proposal to cure arrears on a long-term debt provided for by the Plan. *See also In re Hoggle*, 12 F.3d 1008 (11th Cir. 1994).

**A. Proposal to Cure Arrears:**

1. **Arrears.** The Debtor's Plan provides for the Debtor's post-petition maintenance of the current, contractual, installment payments on the following long-term debt:

|  |  |  |
| --- | --- | --- |
| **Creditor Name** | **Collateral Description (if any)** | **Claim Number(s) (if any)** |
| Enter Creditor Name | Enter Description | Claim #('s) |

The Debtor proposes to modify the Plan to cure amounts due to the above-named creditor (the "Arrears") other than under the Plan,[[2]](#footnote-2) consisting of the following amounts (include a separate row for each category):

|  |  |  |
| --- | --- | --- |
| **Category**  (e.g., missed installment payments; post-petition fees, expenses, or charges; etc.) | **Description**  (e.g., date range and installment payment amount; date of creditor's notice of post-petition fees, expenses, or charges; etc.) | **Amount** |
| Enter Category | Enter Description | $Amount |

1. **Arrearage Claim.** The creditor, or the Debtor on the creditor's behalf, has filed a claim for the Arrears in the aggregate amount of $ Enter Amount (the "Arrearage Claim"). (*See* Claim No. Enter Claim #.) *If the Debtor filed the Arrearage Claim, the Debtor proposes that the above-named creditor have leave to amend the Arrearage Claim for a period not to exceed 70 days after the date of the order granting the Motion.* The Debtor proposes to pay the Arrearage Claim through the Plan in full Select one: without interest OR with interest at the annual rate of \_\_% and Select one: to grant the Arrearage Claim a monthly fixed payment of $\_\_\_ OR to pay the Arrearage Claim without a monthly fixed payment.

1. **Good Faith Basis.** The Debtor alleges that the Debtor's proposal to cure the Arrears is made in good faith and, in support of this allegation, states as follows: Click here to enter text.
2. **Existing Claim(s) of Creditor.** The Debtor does not hereby request disallowance of any claims heretofore allowed the above-named creditor, nor does the Debtor request any cessation or suspension of the chapter 13 trustee's disbursements on the existing claim(s) of the above-named creditor.

**B. Other Modification(s)** (*Part B may be omitted if there are no other Modification(s)*)**:**

1. **Plan Payments**. The Debtor's Plan payments are $Enter amount Select: monthly, semimonthly, weekly, biweekly. The Debtor proposes (check one):

☐ that Plan payments remain the same; or

☐ to modify Plan payments by Select: increasing or decreasing the Debtor's Plan payments to $ Enter amount Select: monthly, semimonthly, weekly, biweekly.

1. **Plan Term.** The Debtor's Plan term is Enter number months. The Debtor proposes (check one):

☐ that the Plan term remain the same; or

☐ to modify the Plan term by Select: extending or reducing the Plan term to Enter number months.

1. **General Unsecured Distribution.** The Plan provides that each holder of a General Unsecured Claim shall receive (check one):

☐ Enter percentage% of the creditor's General Unsecured Claim;

☐ 100% of the creditor's General Unsecured Claim plus interest at the annual rate of Enter percentage%;

☐ a pro rata share of a $Enter amount pot; or

☐ a pro rata share of the Plan payments (totaling $Enter amount) that remain after disbursements have been made to all other creditors provided for in the Plan, if any.

This is referred to as the "General Unsecured Distribution." The Debtor proposes (check one):

☐ that the General Unsecured Distribution remain the same; or

☐ to Select: increase, reduce, or modify the General Unsecured Distribution to each holder of a General Unsecured Claim to (check one):

☐ Enter percentage% of the creditor's General Unsecured Claim;

☐ to 100% of the creditor's General Unsecured Claim plus interest at the annual rate of Enter percentage%;

☐ a pro rata share of a $ Enter amount pot; or

☐ a pro rata share of the Plan payments (totaling $ Enter amount) that remain after disbursements have been made to all other creditors provided for in the Plan, if any.

1. **Monthly Fixed Payments** (check one):

☐ The Debtor proposes that, except as set forth in Part A hereof, monthly fixed payment(s) provided for by the Plan (if any) remain the same; or

☐ The Debtor proposes to modify certain monthly fixed payment(s) provided for by the Plan as follows (complete a separate row for each monthly fixed payment that the Debtor proposes to modify):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Creditor Name** | **Claim Type** (secured, priority, arrearage, etc.) | **Proof of Claim Number** | **Current Monthly Fixed Payment** | **Proposed Monthly Fixed Payment** |
| Enter Creditor Name | Enter Type | Claim # | $Amount | $Amount |

1. **Disbursing Agent(s) for Maintenance Payments on Long-Term Debt(s)** (check one):

☐ The Debtor proposes that the disbursing agent(s) for current, contractual, installment payments on any long-term debt(s) provided for by the Plan remain the same; or

☐ The Debtor proposes to change the disbursing agent(s) for current, contractual, installment payments on certain long-term debt(s) provided for by the Plan, effective as of the date of the court's order approving the Modifications (include a separate row for each debt):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Creditor Name** | **Claim No.** | **Current Installment**  **Amount** | **Current Disbursing Agent** | **Proposed Disbursing Agent** |
| Enter Creditor Name | Claim #('s) | $Amount | Debtor  Trustee | Debtor  Trustee |

1. **Grounds for Part B Modification(s).** As grounds for the Modification(s) set forth in Part B of the Motion, the Debtor avers as follows: Click here to enter text.
2. **Other Exhibit(s).** As further support for the relief requested in Part B of the Motion (check all that apply):

☐ the Debtor has (or will)[[3]](#footnote-3) file amended schedules I and J sworn to under penalty of perjury;

☐ the Debtor has attached (as "Exhibit B") an affidavit or declaration; or

☐ other (describe): Click here to enter text.

**WHEREFORE, PREMISES CONSIDERED,** the Debtor requests entry of an order substantially in the form of the Proposed Order.

Dated: Enter or select a date.

Signature of Attorney for Debtor or pro se Debtor

Print Name: Enter Name

Address: Enter Address

Telephone No. Enter Telephone No.

Email: Enter Email Address

**CERTIFICATE OF SERVICE**

I hereby certify that on the date of this certificate of service, I caused the Motion, the exhibit(s) to the Motion (the "Exhibit(s)"), including the Proposed Order, and this certificate of service[[4]](#footnote-4) to be served on the creditors and other interested parties identified on the attached mailing matrix[[5]](#footnote-5) by First-Class United States Mail.

I also hereby certify that on the date of this certificate of service, I caused the Motion, the Exhibit(s), and this certificate of service to be served on the parties listed below by the means specified (if none, leave blank):

|  |  |
| --- | --- |
| **Name and Address**  (If any entity is served care of an officer or agent, identify the person served by name and by title.) | **Method of Service**  (If service is made by certified mail, include the certified mail number.) |
| Click here to enter text. | Click here to enter text. |

Dated: Enter or select a date.

Signature of Attorney for Debtor or pro se Debtor

**EXHIBIT A**

(Proposed Order)

**IN THE UNITED STATES BANKRUPTCY COURT**

**FOR THE NORTHERN DISTRICT OF ALABAMA**

**WESTERN DIVISION**

|  |  |  |
| --- | --- | --- |
| **In re:**  **Click to enter DEBTOR and JOINT DEBTOR,**  **Debtor(s).** |  | **Case No. Case number-JHH**  **Chapter 13** |

**ORDER GRANTING DEBTOR'S MOTION TO MODIFY CONFIRMED CHAPTER 13 PLAN TO CURE ARREARS ON A LONG-TERM DEBT PROVIDED FOR BY THE PLAN**

This matter is before the court on the *Debtor's Motion to Modify Confirmed Chapter 13 Plan to Cure Arrears on a Long-Term Debt Provided for by the Plan* (Doc. Enter Doc #) (the "Motion"). Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Motion. The Motion was served on all creditors and other interested parties with the Western Division Administrative Order No. 20-01 negative notice legend informing the parties of their opportunity to respond. No party filed a response within the time permitted, and, therefore, the court considers the Motion to be unopposed and deems admitted the uncontroverted factual allegations set forth in the Motion. (*See* Admin. Order No. 20-01.) It appears to the court that the Motion should be granted. Accordingly, it is ORDERED:

1. The Motion is granted, and the Modifications are approved and shall take effect on the date of this order.
2. If the Debtor filed the Arrearage Claim, the affected creditor shall have 70 days from the date of this order to amend the Arrearage Claim.

Dated:

UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT B[[6]](#footnote-6)**

(Affidavit or Declaration)

1. The movant must submit a Word version of the Proposed Order to the court's e-orders e-mail address ([ordersjhh@alnb.uscourts.gov](mailto:ordersjhh@alnb.uscourts.gov)) in accordance with Western Division Administrative Order Number 20-01.

   [↑](#footnote-ref-1)
2. Pre-petition and post-petition arrears already provided for by the Plan are omitted from the Arrears. [↑](#footnote-ref-2)
3. If (by the response deadline) the Debtor's schedules I and J (as amended) do not support a requested Modification to Plan payments, the court may deny the Motion, without prejudice, or notice a hearing on the Motion to determine feasibility. [↑](#footnote-ref-3)
4. This certificate of service must be attached to, and filed with, the Motion. [↑](#footnote-ref-4)
5. Attach a current, official mailing matrix for the Case. [↑](#footnote-ref-5)
6. Omit if not applicable. [↑](#footnote-ref-6)