

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

In re:

[NAME(S)],

Case No. ___ - ____ -JHH

Debtor(s).

Chapter 13

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 30 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.

TRUSTEE'S MOTION TO DISTRIBUTE INSURANCE PROCEEDS AND RECONSIDER CLAIM

COMES NOW C. David Cottingham, the standing chapter 13 trustee for the Western Division of the Northern District of Alabama (the "Trustee"), and, pursuant to 11 U.S.C. §§ 502(j), 506(a), 1302, and 1329(a), requests the entry of an order substantially in the form of the proposed order attached hereto (the "Proposed Order"). As grounds for the Motion, the Trustee states:

1. The Trustee has received insurance proceeds from [Insurance Company Name] (the "Insurance Company") in the amount of \$[Amount] (the "Proceeds") in payment for damage to or total loss of the collateral securing claim number [#] (the "Claim") of [Creditor Name] (the "Creditor"), a [Vehicle Description] (the "Vehicle").

2. The Claim was previously allowed as a secured claim in the amount of \$[Amount] (the "Secured Claim") and an unsecured claim in the amount of \$[Amount] (the "Unsecured Claim").

3. From the Proceeds, the Trustee proposes to collect the percentage fee due the Trustee and to disburse the balance of the Proceeds, in the amount of \$[Amount] (the "Disbursement"), to the Creditor. The Trustee further proposes to apply the Disbursement first to any accrued, unpaid interest owing on the Secured Claim through the date of the Trustee's next distribution after the Objection

Deadline,¹ in the amount of \$[Amount] and to apply the remainder of the Disbursement to the unpaid amount of the Secured Claim.

4. Following the Disbursement, the value of the Creditor's remaining interest(s) in the estate(s)' interest(s) in the collateral for the Claim (i.e., the Vehicle and the Proceeds) will be \$0.00. Accordingly, the Trustee proposes to reduce the allowed amount of the Secured Claim to \$[Amount] (the "Reduced Amount"), which is the amount of the Secured Claim that will have been paid after the Trustee makes the Disbursement, and to increase the allowed amount of the Unsecured Claim to \$[Amount], which is the total allowed amount of the Claim less the Reduced Amount.

5. The Trustee proposes to pay the (increased) Unsecured Claim, pro rata, with other allowed nonpriority unsecured claims not separately classified by the debtor(s)' plan on the terms thereof and asks that the court confirm that the debt evidenced by the Claim shall be subject to discharge in this case (provided a discharge order is entered).

6. To facilitate the Disbursement, the Trustee requests that the court order the Creditor to release the title for the Vehicle to the Insurance Company at the address below:

[Address]

WHEREFORE, C. David Cottingham moves for entry of an order substantially in the form of the attached Proposed Order.

This the [Date] day of [Month], [Year].

C. David Cottingham, Standing Trustee
P. O. Drawer 020588
Tuscaloosa, AL 35402

Certificate of Service

This is to certify that I have this day served a copy of the Motion upon the below listed parties (the Creditor, the debtor(s), the debtor(s)' attorney, and the Insurance Company) and all other parties identified on the attached matrix (collectively, the "Interested Parties") by mailing a copy of the same with adequate postage thereon (or by electronic means when available):

[Addresses]

This the [Date] day of [Month], [Year].

C. David Cottingham, Standing Trustee
P. O. Drawer 020588
Tuscaloosa, AL 35402

CDC/dib

¹ The Trustee will suspend disbursements on the Secured Claim pending adjudication of the Motion.

[PROPOSED ORDER]

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

In re:

«debtor»
«joint»

Case No. «print_casenum»

Chapter 13

Debtor(s).

**ORDER GRANTING TRUSTEE'S MOTION TO DISTRIBUTE INSURANCE PROCEEDS
AND RECONSIDER CLAIM**

This matter is before the court on the *Trustee's Motion to Distribute Insurance Proceeds and Reconsider Claim* (Doc. [#]) (the "Motion"). Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Motion. Notice of the Motion and of the opportunity to object and request a hearing was provided to all Interested Parties. No Interested Party timely filed an Objection, and it appears to the court that the Motion should be granted. Accordingly, it is ORDERED:

1. The Motion is GRANTED.
2. The Trustee is authorized to disburse the Proceeds in the manner described in the Motion.
3. The allowed amount of the Secured Claim is reduced to \$[Amount], and the allowed amount of the Unsecured Claim is increased to \$[Amount].
4. The Unsecured Claim shall be paid (in the amount allowed hereby), pro rata, with other nonpriority unsecured claims not separately classified by the debtor(s)' plan on the terms thereof, and the debt evidenced by the Claim shall be subject to discharge in this case.
5. The Creditor is directed to release the title for the Vehicle to the Insurance Company.

Dated: _____

UNITED STATES BANKRUPTCY JUDGE