

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

GENERAL ORDER NO. 2017-1

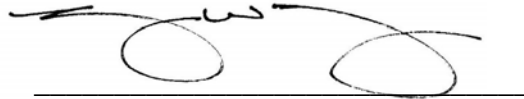
IT IS ORDERED that upon receipt of insurance funds for damage sustained to collateral securing a claim, the secured creditor shall:

- 1) Within seven (7) days of receiving the funds, notify the debtor, debtor's attorney and trustee of the amounts received and the creditor's intentions regarding same.
- 2) If no response to the notice of delivery of funds is received, or if the debtor consents to or requests the application of the funds to the amounts owed, the secured creditor shall file an Ex Parte Motion to Apply Insurance Proceeds. The motion must include the amount received and a statement of the amounts due under the secured claim. A suggested form of motion is set forth below.
- 3) The motion shall be served in accordance with the Federal Rules upon the debtor, debtor's counsel, any other creditors holding a secured claim or parties with an interest against the property, and the trustee. In addition, a copy of the motion shall be sent by electronic or facsimile delivery to the aforementioned parties.
- 4) The Court will consider the merits of the motion no earlier than seven (7) days after service, and if no objection is filed, may grant the relief without the necessity of a hearing.
- 5) Proposed orders should be emailed to the orders box for the appropriate section as set forth in the Administrative Procedures Manual and should include provisions directing that the secured creditor provide the trustee, the debtor and debtor's counsel with an accounting regarding the application of the amounts received, any sums remaining on the claim after the application of the proceeds, and if fully satisfied, the return of the original note or other evidence of debt to debtor's counsel. The order shall also provide that any excess funds be remitted to the trustee for administration and that the secured creditor amend or withdraw any proof of claim to reflect the amounts due after application of the funds within thirty (30) days of the date of the order. If the secured claim is collateralized by a motor vehicle, the order shall also provide that any title held by the secured creditor be delivered to the insurer, debtor's counsel, or subordinate secured creditor as appropriate. A suggested form of order is set forth below.
- 6) Should objection to the application of the proceeds be made prior to or subsequent to the filing of the motion, then the motion must be set for hearing and noticed in accordance with the Federal Rules.
- 7) An agreement between the debtor and the secured creditor to escrow the proceeds pending further order of the Court does not require Court approval.

8) If a hearing on the matter is required, or if the debtor and the secured creditor have agreed to escrow the funds for a period of time, then the secured creditor shall place the proceeds in an interest bearing account, federally insured and yielding an amount of interest no less than that available to the debtor in a passbook or money market account.

New Orleans, Louisiana, August 23, 2017.

FOR THE COURT

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Elizabeth W. Magner, Chief Judge

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE:

CASE NO.

DEBTOR

SECTION __
CHAPTER ____

Ex Parte Motion To Apply Insurance Proceeds On Secured Obligations

NOW INTO COURT, through undersigned counsel, comes _____, a secured creditor herein, who with respect represents:

1.

On __[filing date]_____, _____ (“Debtor(s)”) filed a voluntary petition for relief under Title 11, chapter ____ of the United States Bankruptcy Code.

2.

[Delete this paragraph in Chapter 7 cases]

On __[confirmation date]_____, this Court confirmed Debtors’ plan of reorganization (“Plan”), a copy of which is attached hereto as Exhibit “A.”.

3.

Under the terms of the Plan, __[Lender] (“Creditor”)_____ was recognized as a secured creditor [Delete this sentence in Chapter 7 cases]. The collateral securing Debtors’ obligations to [Lender] (“Creditor”) is _____. In connection with Debtors’ case. Creditor filed a proof of claim setting forth the amounts owed and the security interests Creditor alleged to exist in its favor. No objection to Creditor’s proof of claim was filed. [OR, Objection to Creditor’s proof of claim was filed and [denied, settled, or sustained]. As a result, Creditor’s claim was recognized in the amount of \$_____ and its secured

interest in the amount of \$_____.

4.

[Delete this paragraph in Chapter 7 cases]

Under the terms of the Plan, Debtors proposed to pay __[number]_ monthly payments of \$_____ on an outstanding arrearage of \$_____ due Creditor. In addition, Debtors committed to make monthly payments outside of the plan in the amount of \$_____ per month to Creditor.

5.

Due to the effects of [describe calamity], the collateral securing the claims of Creditor was damaged. Insurance existed on the property and a claim was filed by Debtors. On _____, Creditor received a check in the amount of \$_____ from [insurer's name]. The check has been deposited and Creditor requests permission to apply the funds received to the amounts due by Debtors.

6.

Creditor has notified the Trustee, Debtors, Debtors' counsel, and any party holding an interest in the property, of the filing of this Motion. In addition, Creditor has provided a payoff statement of the amounts due on its claims to these same parties. Notice was delivered by United States Mail as well as by [facsimile or electronic delivery] on _____.

7.

Creditor requests permission to apply the funds received towards the satisfaction of its claims. Within thirty (30) days of the entry of an order allowing application of the funds, Creditor agrees to provide an accounting of the amounts due to the Trustee, Debtors, Debtors' counsel, and any party holding an interest in the property. Creditor will also amend or withdraw,

as appropriate, any proof of claim on file in this case to reflect the application of the funds.

8.

In the event that the claims of Creditor are satisfied in full, Creditor will also deliver the original note or evidence of indebtedness, and ,if applicable, return all title documents to counsel for Debtors within sixty (60) days of the entry of an order on this Motion.

9.

After satisfaction of the amounts due, should any funds remain, Creditor agrees to remit those funds to the Trustee within thirty (30) days of the entry of an order on this Motion.

WHEREFORE, Creditor, a secured creditor herein, prays that without the necessity of a hearing, it be allowed to apply the proceeds from insurance received towards the satisfaction of the claims held by Creditor against Debtors. Within thirty (30) days of the entry of an order on this Motion, granting the requested relief, Creditor will supply an accounting of the amounts applied and any sums remaining to the Trustee, Debtors, Debtors' counsel, and any party holding an interest in the property. Creditor shall, within thirty (30) days of the entry of an order on this Motion, amend or withdraw, as appropriate, any proof of claim filed in this case to reflect the application of funds. If after application of the funds the secured claims of Creditor are fully satisfied, Creditor will return the original note or evidence of indebtedness marked paid, as well as any title documents, to Debtors' counsel, within sixty (60) days of the entry of an order on this Motion. Should any funds remain after the satisfaction of sums due to Creditor, Creditor will remit them to the Trustee within thirty (30) days after entry of an order on this Motion.

Respectfully submitted,

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE:

CASE NO.

DEBTOR

SECTION __
CHAPTER ____

ORDER FOR RELIEF FROM STAY

On Ex Parte Motion to Apply Insurance Proceeds On Secured Claim, (“Motion”) filed by _____, (“Mover”), the Court having considered the merits of the Motion, the allegations contained therein, attachments thereto entered of record, arguments of counsel, [as well as any Objections filed thereto] [no objections having been filed thereto], and there being good cause to grant the relief requested;

IT IS ORDERED, that the Motion is **GRANTED** and the automatic stay imposed by 11 U.S.C. §362 is terminated for the limited purpose of allowing Mover to apply the proceeds received from the insurance claim filed by Debtors against [insurer] towards the satisfaction of its claims.

IT IS FURTHER ORDERED, that within thirty (30) days of the entry is Order, [Lender] shall supply an accounting of the amounts applied and any sums remaining to the Trustee, Debtors, Debtors’ counsel, and any party holding an interest in the property. [Lender] shall also, within thirty (30) days of the entry of an order on this Motion, amend or withdraw, as appropriate, any proof of claim filed in this case to reflect the application of funds.

IT IS FURTHER ORDERED, that if after application of the funds the secured claims of [Lender] are fully satisfied, [Lender] will return the original note or evidence of indebtedness marked paid, as well as any title documents, to Debtors’ counsel, within sixty (60) days of the entry of this Order. Should any funds remain after the satisfaction of sums due to [Lender], [Lender] will remit them to the Trustee within thirty (30) days after entry this Order. Disposition of any funds

remitted to the Trustee is subject to further order of this Court.

IT IS FURTHER ORDERED, that the Chapter 13 Trustee shall discontinue payments to [Lender] on its claim under the Chapter 13 Plan filed by the Debtor(s) until such time as [Lender] supplies an accounting of the amounts applied and remaining as well as amends or withdraws, as appropriate, its proof of claim filed herein [Delete this paragraph in Chapter 7 cases.].