

Procedure for Secured Creditors regarding the Receipt of Insurance Proceeds:

Upon receipt of insurance funds for damage sustained to collateral securing a claim, the secured creditor shall:

- 1) Within ten (10) 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 debtors consent to or request 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 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 ten (10) days after service, and if no objection is filed, may grant the relief without the necessity of a hearing.
- 5) Proposed orders should be submitted to SectionAOrders@laeb.uscourts.gov. Orders should include provisions directing that the secured creditor provide the trustee, 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 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 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 Debtors in a passbook or money market account.