

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

IN RE:

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JOHN DOE

Debtor(s)

CHAPTER 13

CASE NO. 09-6_____

JOHN DOE

Movant,

v.

HERBERT L. BESKIN, TRUSTEE,

Respondent,

Serve: Herbert L. Beskin, Trustee
P.O. Box 2103
Charlottesville, VA 22902

**MOTION TO COMPEL RESPONDENT TO REFUND PROCEEDS RECEIVED FROM
INSURANCE SETTLEMENT**

1. The Debtor (the "Movant" herein) filed her bankruptcy case under Chapter 13 of the Bankruptcy Code on October ____, 200__. This Court thus has jurisdiction over this action under 28 U.S.C. Section 1334. This proceeding is a core proceeding.
2. Herbert L. Beskin (the "Respondent" and the "Chapter 13 Trustee") was appointed the Chapter 13 Trustee in this case.
3. On December ____, 200__, the Court confirmed Movant's proposed plan dated September ____, 200__ providing for the Trustee to pay the value of the car estimated to be \$7,200.00 at 9% interest at \$228.96 per month for 36 months secured by the debtor's 2003 Mitsubishi Gallant to ABC Finance, the lien holder.
4. On January ____, 200__ the Movant was hit by a drunk driver and wrecked her 2003 Mitsubishi Gallant. Soon thereafter the insurance company declared the car a total loss.
5. The insurance company issued a check for \$5,906.19 to the Chapter 13 Trustee Herbert L. Beskin to be used towards the payoff of the 2003 Mitsubishi Gallant.

6. As of June 19, 2009 the balance due on the 2003 Mitsubishi Gallant per the Chapter 13 Trustee's records is \$4,579.20 plus the allowed Trustee's commission and unpaid interest.
7. Movant submits that the excess funds over and above the balance owed by the Chapter 13 Trustee on the 2003 Mitsubishi Gallant should be payable to the Movant as property of the Movant.
8. As of June 19, 2009 the Movant has not been able to afford to replace the 2003 Mitsubishi Gallant.
9. Thus, the Movant by way of her counsel is requesting that the Respondent refund to the Movant any net proceeds available after paying off the lien holder from the funds received from the insurance company. The Movant also ask that said refund be issued by the Respondent without deducting his standard Trustee commission so that she may use those funds towards the purchase of a replacement vehicle without incurring further indebtedness related to the purchase of the vehicle unless she seeks court permission to incur new debt.

WHEREFORE, the Movant requests that this Court compel Respondent to refund to the Movant any net proceeds available after paying off the lien holder from the funds received from the insurance company, that said refund be issued by the Respondent without deducting his standard Trustee commission and order any other appropriate relief.

06/19/2009

Respectfully submitted,

ABCD Law Firm, PLLC

By: /s/ _____
Counsel for Movant

David Cox
VSB BAR NUMBER _____
ABCD Law Firm, PLLC, etc., etc.

Certification

I hereby certify that a copy of the foregoing Motion was distributed by First Class postage prepaid mail or as permitted by Local Rules to the Chapter 13 Trustee and the Debtors on this 19th day of June 2009.

/s/ _____

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE:

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JOHN DOE

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Debtor(s)

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CHAPTER 13

CASE NO. 07-6_____

ORDER

Upon motion by the Debtor to Compel Trustee to Refund any net Proceeds available after paying off the lien holder from Insurance Settlement, and it appearing from the endorsement of the Trustee that he does not object to the relief sought and for good cause shown, it is

ORDERED

that the Debtors' motion is granted and, after paying off the lien holder, the Chapter 13 Trustee, Herbert L. Beskin, is directed to refund to the debtor any net proceeds available without deducting his standard Trustee commission.

A copy of this Order is directed to be forwarded to the Debtor, the Creditor and the Chapter 13 Trustee

Dated:

U.S. Bankruptcy Judge

I ask for this:

/s/

ABCD Law Firm, etc., etc.

Seen & Agreed:

/s/ Herb L. Beskin

Herb L. Beskin, Chapter 13 Trustee

