

Office of James M. Wyman, Ch. 13 Trustee

Insurance Claim Policies

Please note the following:

1. If your client has an issue regarding the settlement of a cause of action and the possible payoff of a vehicle that is currently being paid through the Chapter 13 plan, please follow through in representing your client in this matter, as required by Local Rule SC LBR 9010-1 (d).
2. The creditor should be paid directly by the insurance company. Please contact the creditor for the payoff to ensure that the correct amount is being sent.
3. Then contact Sarah Walker at walker@charleston13.com to notify us of the accident and let us know what the expected proceeds are after payment of the lien. If your client is requesting any of the additional proceeds over the payoff, explain what the debtor intends to do with the money. Any funds received from the insurance company will be presumed to be funds in excess of the payoff, and applied and paid pursuant to the plan terms.
4. After we are contacted we will put a hold on all disbursements to the creditor.
 - a. The Trustee's office will object to the creditor's claim if we are notified by the debtor's attorney showing proof of payment to the creditor.
 - b. If we are not notified in 60 days we will resume payments to the creditor unless contacted by the debtor's attorney that you are still negotiating payment to the creditor.
5. The bankruptcy code does permit the reduction of the base plan to the extent that a claim is paid outside the plan, but that relief would need to be requested, by the filing of an amended plan and motion to modify which specifies the reason for the change, and an amended budget showing the debtor's current circumstances. The plan base is not automatically reduced. If you intend to file an amended plan, please do so as soon as possible, to avoid over-disbursements by this office. The Trustee will not request reimbursement for any disbursements he has made on reliance of this policy.