

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
_____ DIVISION

IN RE:	*	
	*	
[Debtor's Name]	*	
(***-**-last four digits of SSN)	*	Case No. __-_____
[Joint Debtor's Name, if any]	*	Chapter 13
(***-**-last four digits of SSN)	*	
[Debtors' mailing address]	*	
[Debtor's mailing address—cont.]	*	
Debtors	*	

MOTION FOR APPROVAL OF COMPROMISE OF
CONTROVERSIES: [short description of claim: for example, PERSONAL INJURY
CLAIM AGAINST DEFENDANT XYZ]
AND APPROVAL OF ATTORNEY'S FEES AND COSTS

NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN RESPONSE IS FILED WITH THE UNITED STATES BANKRUPTCY CLERK, 110 N. COLLEGE AVE., NINTH FLOOR, TYLER, TX AND SERVED ON THE PARTY FILING THIS PLEADING WITHIN TWENTY ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUEST FOR HEARING. THE COURT WILL THEREAFTER SET A HEARING. IF NO RESPONSE IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.

Comes Now, [the Debtor(s)' name] [hereinafter referred to as the Movant(s) or Debtor(s)], and files this their Motion for Approval of Compromise of Controversies: Personal Injury Claim Against Defendant(s) [name(s) of Defendant(s)] and Approval of Attorney's Fees and Costs, and in support of same would show the Court as follows:

Jurisdiction

1. The Court has jurisdiction over this proceeding in accordance with 28 USC 157 and 1334. This is a core proceeding according to 28 USC 157(b).

Factual Background

2. This bankruptcy proceeding was filed on _____, under Chapter 13.

3. The Movant(s) are plaintiffs in a lawsuit styled _____, pending under Cause No. _____, in the [for example, District Court of Smith County, _____ Judicial District], hereinafter referred to as the lawsuit. The nature of the lawsuit is a suit by the Movant(s) against the Defendant(s) [Defendant(s)' names] seeking damages based upon [description of cause of action: for example, the injuries received by the Movant(s) resulting from an automobile accident occurring on or about _____]. The employment of [lawyers' name] of the lawfirm of _____ was previously approved by this Court.

Settlement of the Claim

4. The terms of the proposed Settlement are as follows:

Amount of Settlement or Recovery	\$ _____
Attorney's Fees	(_____)
Expenses as itemized more specifically on attached exhibits	(_____)
Net Amount	\$ _____
Exempt Portion, if any	(_____)
Net Amount payable to Trustee	\$ _____

In exchange for this amount, the Movant(s) would issue full releases to the Defendant(s). [If desired: Attached hereto are copies of the following exhibits which are incorporated herein by reference: Exhibit A—Release and Indemnity Agreement; and Exhibit B—Closing Statement.]

4. The Movant(s) assert that, based upon information and belief, that the proposed settlement is in the best interest of the Chapter 13 Estate.

5. The Movant(s) assert that this agreement should be approved as a compromise of the Claim against Defendant(s). Federal Rule of Bankruptcy Procedure 9019(a) provides, in pertinent part, that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise and settlement.”

6. In deciding whether to approve a proposed settlement agreement or compromise, a bankruptcy court should consider the following factors:

- a. The probability of success on the merits and the resolution of the dispute;
- b. The complexity of the litigation being settled;
- c. The expense, inconvenience and delay associated with litigating the dispute: and

- d. The paramount interests of creditors.

Texas Extrusion Corp. v. Lockheed Corp. (In re Texas Extrusion Corp.), 844 F.2d 1142, 1158-59 (5th Cir. 1988), *cert. denied*, 105 S.Ct. 31 (1989); *United States v. Aweco, Inc. (In re Aweco, Inc.)*, 752 F. 2d 293, 298 (5th Cir. 1984), *cert. denied*, 469 U.s. 880 (1984).

7. While it is necessary for the proponent of a compromise to set forth the factual and legal basis for the compromise so the Court can make an intelligent and informed evaluation of the proposed settlement, it is not incumbent upon the proponent to present a mini-trial or full evidentiary hearing. *Texas Extrusion*, 844 F.2d at 1158-59; *Aweco*, 625 F.2d at 298.

8. The settlement agreement with the Defendant(s) is in the best interests of the Debtor(s) and this bankruptcy estate. The proposed settlement will generate proceeds that may be disbursed by the Trustee to the creditors as noted above.

9. The Movant(s) also request that the Court issue an order approving payment of the Debtor(s)' attorney's fees and litigation expenses as set forth herein above.

WHEREFORE, PREMISES CONSIDERED, the Movant(s) request as follows:

- a. The proposed settlement be approved;
- b. The proposed attorney's fees and costs as outlined herein be approved;
- c. The net proceeds be turned over to the Trustee to be administered in this bankruptcy; and
- d. The Movant(s) be granted such further relief that the Movant(s) may be entitled.

Respectfully submitted,

Respectfully submitted,

[Attorney's name, address, telephone number, bar number, and e-mail address]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served upon the following parties in interest by mailing a copy of same to them via first class mail or electronically on _____:

U. S. Trustee
110 N. College, Suite 300
Tyler, TX 75702

Mr. John J. Talton
Chapter 13 Trustee
110 N. College, Suite 1200
Tyler, TX 75702

[Debtor(s)' name and address]

[Debtor(s)' bankruptcy attorney's name and address]

All parties on the attached mailing matrix

Date

[Name of Attorney]

IN THE UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF TEXAS
 _____ DIVISION

IN RE:	*	
	*	
[Debtor's Name]	*	
(***-**-last four digits of SSN)	*	Case No. __-_____
[Joint Debtor's Name, if any]	*	Chapter 13
(***-**-last four digits of SSN)	*	
[Debtors' mailing address]	*	
[Debtor's mailing address—cont.]	*	
Debtors	*	

ORDER APPROVING TRUSTEE'S MOTION FOR APPROVAL OF
 COMPROMISE OF CONTROVERSIES: PERSONAL INJURY
 CLAIM AGAINST _____ AND
APPROVAL OF ATTORNEY'S FEES AND COSTS

On this day came to be considered the Motion for Approval of Compromise of Controversies: Personal Injury Claim Against _____ and Approval of Attorney's Fees and Costs filed by the Debtor(s) by and through special counsel _____, thereby seeking Court permission to compromise said claim (the "Claim" herein) under the terms as set forth in the Motion. The Court finds that the Motion was properly served pursuant to the Federal and Local Rules of Bankruptcy Procedure and that it contained the appropriate twenty-one (21) day negative notice language, pursuant to the Court's Local Bankruptcy Rule 9007, which directed any party opposed to the granting of the relief sought by the Motion to file a written response within twenty (20) days or the Motion would be deemed by the Court to be unopposed. The Court finds that no objection was filed by any party. Therefore, the allegations contained in the Motion stand unopposed. Upon considering the Motion, the Court was of the opinion that the Motion should be granted under the terms as set forth herein.

IT IS THEREFORE ORDERED that:

1. The terms of the proposed settlement are approved as follows:

Amount of Settlement or Recovery	\$ _____
Attorney's Fees	(_____)
Expenses as itemized more specifically in the Motion	(_____)
Net Amount	\$ _____
Exempt Portion, if any	(_____)
Net Amount payable to Trustee	\$ _____

2. The net amount payable to Trustee shall be administered in accordance to the Chapter 13 Plan as confirmed in this case.