

United States Bankruptcy Court, Southern District of Alabama  
Quarterly Bankruptcy Section Meeting  
February 8, 2022

1. Evan Parrott, Section Chair
2. Judges Callaway and Oldshue
  - Going back to in-person court the week of March 7<sup>th</sup> (subject to Covid status). Chapter 7 and 13 341's to remain telephonic for at least first meeting. "Wet signature" waiver under review.
  - CARES Act chapter 13 plan extensions up to 84 months -- window closes 3/27/22. Orders must be entered by then; file your motions by mid-February.
  - Recent cases involving insurance and personal injury settlements -- Perine, Pugh, and Ertha (see attached summaries)
  - Filing under another atty's CM/ECF account
  - Campbell open house with bar association in September
  - Objections to claims involving non-recourse loans (i.e., title pawns)
  - Trustee motion to dismiss:
    - Talk to your client beforehand.
    - Don't wait to file a motion to modify at the last minute. If you are going to modify in response to a trustee MTD, go ahead and do as soon as possible and certainly before the MTD hearing.
  - Input re new process on chapter 13 trustee's motions to dismiss (wage orders, TFS, ACH)
  - Reminder: AO 2020-7 requires settlement statement and appraisal (or other valuation) for chapter 13 motions to sell real estate.
  - Motions to employ -- include hourly rate. Attach contract if applicable.
  - Location of future lunch meetings?
3. Andrea Redmon, Clerk of Court
4. Mark Zimlich, Bankruptcy Administrator hearings
  - Chapter 13 trustee search
  - Subchapter V
  - Chapter 11 §341 Meetings
5. Danny O'Brien, Chapter 13 Trustee
6. Consumer and business committees -- chairs Stephen Klimjack and Danielle Mashburn-Myrick
  - Possible subchapter V mini-CLE
7. Open the floor
8. Next meeting May 10, 2022

395. In re Perine, Case No. 16-4446 (HAC) June 28, 2021

The insurance proceeds for a wrecked vehicle were less than the vehicle's scheduled value but more than the total of the remaining secured claim and the amount that the debtor could exempt because the debtor had paid down the secured claim. The value of the vehicle and associated insurance proceeds had already been factored into calculating plan payments, and the plan met the liquidation analysis of Code § 1325(a)(4) both at confirmation and at the time of the insurance settlement. The insurance proceeds did not represent new assets or value coming into the estate that had not already been accounted for in the liquidation analysis. The court thus ordered that the net insurance funds be paid to the debtor after paying the small balance left on the secured claim.

397. In re Pugh, Case No. 17-4078 (HAC) August 12, 2021

The insurance proceeds for a wrecked vehicle were more than the scheduled value but less than the total of the scheduled value and the amount the debtor could exempt. Following *In re Perine* (no. 395 below), the court ordered that most of the net auto insurance funds be paid to the debtor after paying the small balance left on the secured claim. However, because the debtor was behind on her plan payments, the court ordered that the amount necessary to bring the plan current be remitted to the chapter 13 trustee with the percentage to unsecured creditors to remain the same.

407. In re Ertha, Case No. 18-551 (HAC) December 2, 2021

When a trustee seeks to modify a confirmed chapter 13 plan to increase the distribution to unsecured creditors because of a postconfirmation personal injury settlement, debtors are entitled to a credit against the amount owed under the liquidation test of Bankruptcy Code § 1325(a)(4) for payments that they have made or will make to unsecured creditors under the plan pursuant to the disposable income test of Code § 1325(b). Put another way, the projected disposable income test and the liquidation test are separate, not stacked. However, the credit is only for plan payments to unsecured creditors – not the total plan payments – since the liquidation test looks at what unsecured creditors are being paid.