

Dated: September 01, 2023
The following is ORDERED:



Denise E. Barnett
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re
Pamela D. Martin,
Debtor.

Case No. 22-24419
Chapter 13

OPINION AND ORDER GRANTING DEBTOR'S
MOTION TO APPROVE SETTLEMENT

This case came on for hearing before the Court on June 6, 2023, on Pamela D. Martin's ("Debtor's") *Motion to Approve Settlement* from a pre-petition personal injury claim.¹ The State of Tennessee allows an exemption up to \$7,500 of personal injury settlement proceeds.² Debtor claimed her personal injury exemption. There was no objection to Debtor's claim of exemption. At the hearing, Jennifer K. Cruseturner, the Chapter 13 Standing trustee (the "Chapter 13 trustee") made an *ore tenus* objection to Debtor's motion, contending that the exempt settlement

¹ ECF No. 69. Also, before the Court on June 6, 2023, was *Motion to Employ Attorney Reaves Law Firm Outside Bankruptcy* (ECF No. 68), which the Court approved.

² Tenn. Code Ann § 26-2-211 (2023).

proceeds should not be disbursed to Debtor. The Court took the *Motion to Approve Settlement* under advisement. Upon review of the record, filed documents, consideration of the arguments by the parties, post-hearing supplemental filings, and relevant case law, the Court grants the Debtor's *Motion to Approve Settlement* and concludes that the exempt personal injury settlement proceeds should be disbursed to Debtor.

I. INTRODUCTION

The issue before this Court is whether the exempt portion of Debtor's personal injury settlement proceeds should be disbursed to Debtor when the proceeds are claimed exempt and there is no objection to Debtor's claimed exemptions. The Court concludes that the proceeds from the personal injury settlements are Debtor's exempt assets to be disbursed to Debtor and not required to be turned over the Chapter 13 trustee. For the reasons explained below, the Debtor's *Motion to Approve Settlement* is granted with the exempt proceeds to be disbursed to Debtor.

II. FACTUAL AND PROCEDURAL BACKGROUND

On October 11, 2022, Debtor filed a Chapter 13 petition, together with schedules, and statements, and a proposed Chapter 13 plan.³ Debtor listed the pending lawsuit on Schedule A/B and claimed \$7,500 in personal injury exemptions on Schedule C and further stated "Personal Injury Lawsuit- Reeves Law Firm- Not sure of value but will take full exemption."⁴ At the time of filing, the Debtor was unaware of the amount of the settlement.⁵

³ ECF Nos. 1 and 2.

⁴ ECF No. 1.

⁵ Debtor's Amend. Mem., ECF No. 81.

On February 15, 2023, Debtor's Chapter 13 plan was confirmed.⁶

On May 10, 2023, Debtor filed a *Motion to Employ Attorney Reaves Law Firm Outside Bankruptcy* and a *Motion to Approve Settlement*.⁷ In the motion to employ, Debtor stated she was injured on June 22, 2022, a pre-petition injury as her bankruptcy was filed later in the year.

At the hearing on June 6, 2023, the Chapter 13 trustee made an *ore tenus* request that the Debtor turn over the exempt personal injury settlement proceeds and provide information on how personal injury settlement proceeds will be used so that the Chapter 13 trustee may determine whether a portion or all of the exempt proceeds should be disbursed to Debtor.⁸ The Court inquired whether the Debtor claimed an exemption, to which Debtor responded she did on Schedule C in the amount of \$7,500.⁹ The Chapter 13 trustee argued that the use of the proceeds must be "reasonable and necessary for the maintenance and support of the debtor" irrespective of the Debtor's claimed exemption.¹⁰ The Chapter 13 trustee did not object to Debtor's claimed exemption of the personal injury proceeds.¹¹

⁶ ECF No. 46.

⁷ ECF No. 68 and 69.

⁸ Hearing on *Motion to Approve Settlement*, June 6, 2023, at 11:21 a.m.

⁹ *Id.*

¹⁰ *Id.* at 11:22 a.m.

¹¹ See Fed. R. Bankr. P. 4003(b)(1) ("Except as provided in paragraphs (2) and (3), a party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under 11 U.S.C. § 341(a) is concluded or within 30 days after any amendment to the list of supplemental schedules is filed, which is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension."); see also *Schwab v. Reilly*, 560 U.S. 770, 775 (2010) ("Federal Rules of Bankruptcy require interested parties to object to a debtor's claimed exemptions within 30 days after the conclusion of the creditor's meeting held pursuant to Rule 2003(a). If an interested party fails to object within the time allowed, a claimed exemption will exclude the subject property from the estate.").

In this case, Debtor's confirmed plan states the last day to object to personal injury exemptions is the later of the date of discharge or 30 days after meeting of creditors in a case that is converted to a Chapter 7 or 11. It is unclear how or why this language was included in the confirmation order, and it appears inconsistent with Bankruptcy Rule 4003(b)(1).

The Court took this matter under advisement and instructed the parties to make supplemental filings within seven (7) days of the hearing. On June 14, 2023, Debtor and Chapter 13 trustee entered a *Consent Order Extending Time to Complete and file Respective Briefs, Parties Have Until June 30, 2023*.¹²

On June 21, 2023, Debtor filed Amended Schedule A/B and Schedule C.¹³ The amended Schedule C reflected the full amount of the personal injury settlement, which was \$5,547.40.¹⁴

On June 29 and 30, 2023, both Debtor and the Chapter 13 trustee filed supplemental responses.¹⁵

The Chapter 13 trustee argues that personal injury proceeds are disposable income despite an exemption being claimed, and that the Debtor is required to commit to their plan.¹⁶ The Chapter 13 trustee heavily relies on the *Freeman* case, which discusses tax refunds, and argued the case sets a clear precedent that personal injury proceeds are disposable income, regardless of an exemption being claimed. In Debtor's *Amended Memorandum of Law*, Debtor argues that exempt property under the Bankruptcy Code and Tennessee law should not be treated as disposable income.¹⁷ The Debtor further argues that the *Freeman v. Schulman*, decision was before the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005

¹² ECF No. 74.

¹³ ECF No. 78.

¹⁴ *Id.*

¹⁵ ECF Nos. 80, 81, and 82.

¹⁶ Chapter 13 Trustee Brief and Mem., at 1.

¹⁷ Debtor's Amend. Mem.

(“BAPCA”), and the revisions of BAPCA “materially changed the definition of disposable income although it did not change the definition of projected disposable income.”¹⁸

III. DISCUSSION¹⁹

The commencement of a bankruptcy case creates an estate consisting of all legal and equitable interests of the debtor.²⁰ A debtor may claim exemptions under section 522, which are either federal or state exemptions. Under Federal Rule of Bankruptcy Procedure 4003(b), a creditor or a trustee may object to claimed exemptions within 30 days of the initial meeting of creditors under section 341.²¹

Section 1325(b) provides that the Court may not approve the plan unless the debtor commits all their “projected disposable income” to make payments under the plan.²²

The issue of whether personal injury proceeds are part of the debtor’s disposable income has not been addressed in this Circuit post-BAPCPA. The interplay of section 1325(b)—which addresses debtor’s obligation to commit all disposable income into the plan, and section 522(c), which exempts certain property—has been long-contested pre-BAPCPA.

While some pre-BAPCPA courts found that personal injury settlement proceeds should be considered disposable income,²³ other courts found that personal injury settlement proceeds

¹⁸ *Id.*; see also *Freeman v. Schulman (In re Freeman)*, 86 F.3d 478 (6th Cir. 1996).

¹⁹ The Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1334(b). Venue is proper in this District. 28 U.S.C. § 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The following shall constitute the court’s findings of fact and conclusions of the law in accordance with Rule 7052, Federal Rules of Bankruptcy Procedure.

²⁰ 11 U.S.C. § 541 (2023). In Chapter 13 cases, property of the estate is expanded as provided in 11 U.S.C. 1306.

²¹ Fed R. Bankr. P. 4003(b)(1).

²² 11 U.S.C. § 1325(b)(1)(B).

²³ See, e.g., *Gaertner v. Claude (In re Claude)*, 206 B.R. 374, 380 (Bankr. W.D. Pa. 1997) (evaluating Chapter 13 trustee’s objection to debtor’s claimed Federal exemption under subsection 522(d)(11) of the existing Bankruptcy

were not projected disposable income because they were not regular payments.²⁴ There is little caselaw addressing this issue post-BAPCPA, but it seems that the split of interpretation continues.²⁵

The Chapter 13 trustee's *ore tenus* objection to the Motion to Approve Settlement simply put is that the Debtor should turn over the exempt personal injury settlement proceeds to the Chapter 13 trustee. If the Debtor wants to receive any portion of the exempt proceeds, the Debtor needs to explain why those funds are needed. In her post-hearing filing, the Chapter 13 trustee seems to conflate two concepts—the “best interest of creditors” test and the “disposable income” test. The Chapter 13 trustee reliance on the 1996 (pre-BAPCPA) case, *In re Freeman* is misplaced for the reasons explained in this opinion.²⁶ *Freeman* addressed whether the tax refund received by the debtor is projected disposable income under the Code that should be applied to the bankruptcy estate to repay creditors.²⁷ *Freeman*'s discussion of whether a debtor's tax refund

Code); *Watters v. McRoberts*, 167 B.R. 146, 147 (Bankr. S.D. Ill. 1994) (discussing the Chapter 13 trustee's objection to confirmation involving a debtor's personal injury settlement proceeds); *In re Freeman*, 86 F.3d at 482; *In re Minor*, 177 B.R. 576, 580-81 (Bankr. E.D. Tenn. 1995) (sustaining Chapter 13 trustee's objection to exemption involving the debtor's worker's compensation awards).

²⁴ *In re Baker*, 194 B.R. 881, 884-85 (Bankr. S.D. Cal. 1996) (“From these cases we distill a simple and workable test: If the exempt asset in question is an anticipated stream of payments, it is included in projected income; if the exempt asset is other than a stream of payments, it is not included.”); *In re Ferretti*, 203 B.R. 796, 800 (Bankr. S.D. Fla. 1996) (“To include exempt property within the parameters of 11 U.S.C. § 1325(b)(2) directly conflicts with § 522(c).”); *In re Tomasso*, 98 B.R. 513, 515-16 (Bankr. S.D. Cal. 1989) (“It is clear that this personal property settlement is exempt up to the sum of \$7,500, and it is not a factor in the disposable income test.”).

²⁵ See *In re McAllister*, 510 B. R. 409, 414 (Bankr. N.D. Ga. 2014) (finding that Debtor did not receive the life insurance proceeds in the six-month period before filing the petition, as defined “current monthly income” under section 101(10A) and therefore they cannot be disposable income). But see *In re Waters*, 384 B.R. 432, 436 (Bankr. N.D. W.Va. 2008) (following pre-BAPCPA view that personal injury proceeds should be included in the calculation of a debtor's projected disposable income).

²⁶ *In re Freeman*, 86 F.3d at 482.

²⁷ *Id.*

meets the definition of projected disposable income under then statutory text of section 1323(b)(2) is inapplicable to the case at bar.

When a debtor’s Chapter 13 plan is confirmed, it must satisfy multiple requirements, including the “best interest of creditors” test and “disposable income” test.²⁸

“Under the disposable income test, if an unsecured creditor or the chapter 13 trustee objects, the debtor must apply all of the debtor’s projected disposable income to the plan for the applicable commitment period (three years for below-median debtors or five years for above-median debtors) if unsecured creditors are not being paid 100% of their claims.”²⁹ The best interest of creditors test, also known as the liquidation analysis, determines if “unsecured creditors must receive at least as much as they would if they were a chapter 7 liquidation.”³⁰

A. Projected Disposable Income

Prior to the BAPCPA, subsection 1325(b)(2)(A) defined “disposable income” as “*income* which is received by the debtor and which is not reasonably necessary to be expended . . . for the maintenance and support of the debtor or a dependent of the debtor.”³¹ A debtor’s disposable income was determined by “subtracting the expenses listed on Schedule J from the income listed on Schedule I and, for purposes of determining whether a debtor was using all of his ‘projected

²⁸ *In re Hill*, 652 B.R. 212, 219 (Bankr. S.D. Ala. 2023) (explaining the difference between disposable income and the liquidation analysis test as it relates to income and assets).

²⁹ *Id.*

³⁰ *Id.*

³¹ 11 U.S.C. § 1325(b)(2)(A) (2004) (“For purposes of this subsection, “disposable income” means *income* which is received by the debtor and which is not reasonably necessary to be expended—(A) for maintenance or support of the debtor or a dependent of the debt, including charitable contributions (that meeting the definition of “charitable contribution” under section 548(d)(3)) to a qualified religious or charitable entity or organization (as the term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the *gross income of the debtor* for the year in which the contributions are made [.]”) (emphasis added); *see also In re Petro*, 395 B.R. 369, 373 (B.A.P. 6th Cir. 2008) (defining disposable income and projected disposable income).

disposable income’ to fund a plan, the difference between Schedule I and J was multiplied by the proposed length of the debtor’s plan.”³²

Under BAPCA, subsection 1325(b)(2)(A) now defines “disposable income” as *current monthly income*³³ received by the debtor less *amounts reasonably necessary to be expended*.³⁴ Subsection 1325(b)(3) states how “amounts reasonably necessary to be expended” shall be determined.³⁵

B. Best Interest of Creditors or Liquidation Analysis Standard

Section 1325(b)(4)³⁶ provides that the bankruptcy court shall confirm the plan if the unsecured creditors in the Chapter 13 case are getting as much as those creditors would get if the estate was liquidated under Chapter 7. In a Chapter 7 case, the debtor’s all non-exempt property

³² *In re Petro*, 395 B.R. at 373.

³³ 11 U.S.C. § 101(10A) (A) (defining the “current monthly income, and states, in part: “The term ‘current monthly income’ means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor’s spouse receive) without regard to whether such income is taxable income, derived during the 6-month period.”).

³⁴ *In re Petro*, 395 B.R. at 374.

³⁵ See 11 U.S.C. § 1325(b)(3) (2023).

³⁶ Subsection 1325(b)(4) states:

- (4) For purposes of this subsection, the “applicable commitment period”—
 - (A) subject to subparagraph (B), shall be—
 - (i) 3 years; or
 - (ii) not less than 5 years, if the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—
 - (I) in the case of a debtor in a household of 1 person, the median family income or fewer individuals; or
 - (II) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of the same number of few individuals; or
 - (III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525¹ per month for each individual in excess of 4; and
 - (B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.

11 U.S.C. § 1325(b)(4) (2023).

is liquidated for the benefit of the unsecured creditors. To determine the value of property to be distributed to unsecured creditors in a Chapter 13 case, one must determine the value of all the debtor's assets that is subject to liquidation in a Chapter 7 case, minus any exempt assets.³⁷

C. Tennessee Exemptions

Section 522 of the Bankruptcy Code governs exemptions.³⁸ It allows debtors to utilize the exemptions listed in Section 522(d) or those set forth by the applicable state law unless state law provides the use of the Section 522(d) exemptions.³⁹ The State of Tennessee opted out of the Federal exemptions, and therefore, its citizens are limited to the exemptions provided under Tennessee law.⁴⁰ When a debtor claims an exemption, “the court may not refuse to honor the exemptions absent a valid statutory basis for doing so.”⁴¹ Pursuant to Tennessee Code Annotated § 26-2-111(2)(B), debtors have a right to claim exemptions in personal injury settlements proceeds up to \$7,500.⁴²

³⁷ See generally *In re Myracle*, No. 89-10204, 1993 WL 261470, at *3 (Bankr. W.D. Tenn. July 8, 1993) (explaining what unsecured creditors would receive in a chapter 7 liquidation using subsection 1325(a)(4) requirements); see generally Hon. Joan N. Feeney & Michael J. Stepan, *Bankruptcy Law Manual* 234-35 (5th ed. 2023).

³⁸ 11 U.S.C. § 522 (2023).

³⁹ See 11 U.S.C. § 522(b) (2023); *In re Smith*, No. 14-12505, 2019 WL 7602201, at *4 (Bankr. W.D. Tenn. Jan. 7, 2019) (explaining the use of exemptions according to the Code).

⁴⁰ See Tenn. Code Ann. § 26-2-112 (2023) (“The personal property exemptions as provided for in this part, and the other exemptions as provided in other sections of the Tennessee Code Annotated for the citizens of Tennessee, are hereby declared adequate and the citizens of Tennessee, pursuant to section 522(b)(1), Public Law 95-598 known as the Bankruptcy Reform Act of 1978 (11 U.S.C., § 522 (b)(1)), are not authorized to claim as exempt the property described in the Bankruptcy Reform Act of 1978 (11 USC § 522 (d)).”); *In re Smith*, No.14-12505, 2019 WL 7602201, at *4; *In re Reeves*, 521 B.R. 827, 831 (Bankr. E.D. Tenn. 2014) (explaining the purpose of exemptions).

⁴¹ *Law v. Siegel*, 571 U.S. 415, 424 (2014) (explaining the Court’s limited ability to not honor a debtor’s exemptions).

⁴² Tenn. Code Ann. § 26-2-11(2)(b) (2023) states:

(B) A payment, not to exceed seven thousand five hundred dollars (\$7,500) on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor or an individual of whom the debtor is a dependent[.]

Under Bankruptcy Rule 4003(b)(1), objections to claims must be filed within thirty (30) days after the meeting of creditors or within thirty (30) days after schedules have been amended, whichever is later.⁴³ Once the deadline has passed, the exemption is final and interested parties cannot contest the exemption.⁴⁴ Exemptions are applicable in Chapter 13 cases,⁴⁵ and debtors have a right to their exemptions up to the close of the case.⁴⁶ “In *Schwab v. Reilly*, the Supreme Court held that when a statute defines an exemption as an interest in property up to a specified dollar amount, that dollar amount interest, rather than the item of property itself, is what is exempt from the bankruptcy estate, regardless of whether the amount claimed exempt by the debtor is equal to the full value of the property.”⁴⁷

⁴³ Bankruptcy Rule 4003(b)(1) states:

- (1) Except as provided in paragraphs (2) and (3), a party in interest may file an objection to the list of property claimed exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list of supplemental schedules is filed, whichever is later. The court may, for cause, extend time for filing objections if, before the time to object expires, a party in interest files a request for an extension.

⁴⁴ *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992) (holding that the validity of claimed exemption could not be challenged after 30-day period for objecting had expired and no extension had been obtained); *In re Reeves*, 521 B.R. at 832.

⁴⁵ See generally *Matter of Slykerman*, 29 B.R. 82 (Bankr. E.D. Mich. 1983) (explaining that section 522 applies to Chapter 13 cases).

⁴⁶ *In re Reeves*, 521 B.R. at 840 (citing *In re Walker*, 505 B.R. 217 (Bankr. E.D. Tenn. 2014)).

⁴⁷ *Id.*; see also *Schwab v. Reilly*, 560 U.S. 770, 783-84 (2010) (explaining the importance of exemptions.); see generally *Law v. Siegel*, 571 U.S. 415, 417 (2014) (“The Bankruptcy Code provides that a debtor may exempt certain assets from the bankruptcy estate. It further provides that exempt assets generally are not liable for any expenses associated with administering the estate.”).

**D. Debtor’s Personal Injury Settlement Proceeds are Assets
that are Analyzed Under the “Best of Interest of Creditors” Standard**

The Court concludes that personal injury proceeds are assets, not income.⁴⁸ The Court finds it persuasive that the Internal Revenue Code explicitly states that personal injury proceeds are not calculated as income under I.R.C. § 104(a). As the Supreme Court explained, “[a]ssume that a taxpayer is in an automobile accident, is injured, and as a result of that injury suffers (a) medical expenses, (b) lost wages, and (c) pain, suffering, and emotional distress that cannot be measured with precision. If the taxpayer settles a resulting lawsuit for \$30,000 (and if the taxpayer has not previously deducted her medical expenses, *see* § 104(a)), the entire \$30,000 would be excludable under § 104(a)(2).”⁴⁹ Justifying the rationale behind the tax exclusion, the Court in *Hawkins* explained that “[w]e have previously recognized that ‘[d]amages paid for personal injuries are excluded from gross income because they make the taxpayer whole from a previous loss of personal rights—because, in effect, they restore a loss to capital.’”⁵⁰ Clearly, if personal injury proceeds are not considered “gross income” for tax purposes because they make the taxpayer whole from a previous loss of personal rights, they should not be considered as “projected disposable income” under the Bankruptcy Code for the same reason.

⁴⁸ Personal injury proceeds are not received on a regular basis that would satisfy a dictionary definition of “income.” Most notably, it would not satisfy the Code’s definition of current monthly income, which is used to calculate a debtor’s disposable income. *See also In re Hill*, 652 B.R. at 219-20; *see also In Re McGuire*, 2022 WL 2293923, at *10 (Bankr. N.D. N.Y. Jun. 24, 2022) (“In this Court’s opinion, Congress did not intend to change the disposable income analysis in BAPCPA in this way. Rather, the disposable income test remains based on income, not prepetition exempt property.”)

⁴⁹ *C.I.R. v. Schleier*, 515 U.S. 323, 329 (1995).

⁵⁰ *Hawkins v. U.S.*, 30 F.3d 1077, 1083 (9th Cir. 1994) (quoting *Starrels v. Commissioner*, 304 F.2d 574, 576 (9th Cir. 1962)); *See also* 1 B. Bittker, *Federal Taxation of Income, Estates and Gifts*, ¶ 13.1.4 (1981) (“The rationale for § 104(a)(2) . . . is presumably that the recovery does not generate a gain or profit but only makes the taxpayer whole by compensating for a loss.”).

The plain language of subsection 1325(b)(2)(A) and 101(10A) outlines what is intended to be included projected disposable income for distribution to creditors. Deviation away from the plain language of subsections 1325(b) is unnecessary and misplaced. The Court cannot read into the statute a definition of “projected disposable income” that is simply not there.⁵¹ This Court shares the opinion of the Court in *In re Daniels* that “[h]ad Congress intended ‘disposable income’ to include personal injury proceeds, Congress could and should have explicitly said so in §§ 1306 and 1325.”⁵² Finding otherwise would make the exemptions under section 522 meaningless and go against congressional intent.

The Court’s conclusions are reinforced by the fact that a pending lawsuit is typically listed as an asset or “property” on Schedule A/B and the exemption is then claimed as the portion of the asset exempted under Schedule C.⁵³ Had the anticipated personal injury settlement been considered “income,” it would have been listed as such on Schedule I instead.⁵⁴ Further, Official Form 122C-1 outline categories of “income” as defined under the tax code.⁵⁵ Notably missing from the categories is personal injury settlement proceeds. Accordingly, the Court rejects the Chapter 13 trustee’s argument.

⁵¹ The Bankruptcy Code lays out a clear definition of “disposable income.” Prior to BAPCA, section 1325(b)(2) did not include personal injury proceeds in its definition of “income.” After BAPCA was enacted, Congress changed the language of subsection 1325(b)(2) from “income” to “disposable income” and clarified what is included in “disposable income.” “Personal injury settlement proceeds” is not in the definition of “disposable income.” Congress did not intend to include personal injury proceeds under subsections 1325(b)(2) and 101(10A) because it is not income.

⁵² *In re Daniels*, No. 11–08830–8–RDD, 2013 WL 365107, at*3 (Bankr. E.D. N.C. Jan 29, 2013); *c.f.* 26 U.S.C. § 104(a): The Internal Revenue Code excludes from gross income proceeds received from personal physical injuries.

⁵³ See Official Form 106A/B – Schedule A/B: Property (requiring debtors to list all assets), and Official Form 106D-Schedule C: The Property You Claim Exempt (requiring a listing of all property that a debtor claim as exempt).

⁵⁴ See Official Form 106I: Your Income (requiring debtors to disclose household income).

⁵⁵ See Official Form 122C-1: Chapter 13 Statement of Your Current Monthly Income and Official Form 122C-2: Calculation of Commitment Period and Calculation of Your Disposable Income. See generally Advisory Committee Notes to Official Forms 122C-1 and 122C-2 and former Official Form 22A-22C (referencing, generally, the Internal Revenue Manual regarding what is defined as gross income).

Debtor is entitled to her validly claimed exemptions in the personal injury settlement proceeds. The Chapter 13 trustee never filed an objection to the claim of exemption in the personal injury settlement proceeds, neither at the conclusion of meeting of creditors nor when Debtor amended her Schedule C to include the actual amount of the personal injury settlement proceed. The Debtor's validly claimed exempt asset belongs to Debtor and does not present an opportunity for an inquiry as to whether Debtor really needs the validly claimed exempt asset. If debtors choose to use the proceeds to pay into their Chapter 13 plan, that is their choice.

The personal injury settlement proceeds—being assets—should be evaluated under the “best interest of creditors” test. In evaluating a debtor's personal injury settlement proceeds consistent with subsection 1325(b)(4), the unsecured creditors should receive as much as they would receive in a Chapter 7 liquidation. So, if a debtor has personal injury settlement proceeds in excess of \$7,500 that the State of Tennessee allows, the excess funds would be available to unsecured creditors in Chapter 7 liquidation, and therefore, the non-exempt portion of the personal injury settlement proceeds should be turned over the Chapter 13 trustee disbursement consistent with the Chapter 13 plan. Here, there are no non-exempt proceeds, and therefore the Debtor is entitled to retain the entire amount of the personal injury settlement proceeds.

IV. CONCLUSION

The Court concludes that Debtor is entitled to her exempt personal injury settlement proceeds. Accordingly, it is **ORDERED**:

1. Debtor's *Motion to Approve Settlement* is granted.
2. Personal injury settlement proceeds claimed exempt on Debtor's Amended Schedule C pursuant to T.C.A. 26-2-111(2)(B) shall be disbursed to Debtor in the amount of \$5,547.40.

Cc: Debtor
Attorney for Debtor
Chapter 13 Trustee
All creditors on matrix