IT IS ORDERED as set forth below:

Date: May 06, 2010

James E. Massey
James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	CASE NO. 09-60947
William Dan Nestel and Debra Jane Nestel,	
	CHAPTER 13
Debtors.	JUDGE MASSEY

ORDER DENYING MOTION FOR APPROVAL
OF SETTLEMENT AND DISBURSAL OF FUNDS

Debtors are represented in this Chapter 13 case by the firm of Jones & Walden, L.L.C. In February 2010, Debtors moved to employ Kenneth T. Letsch as special counsel to handle a personal injury claim, and the Court granted that motion. On March 24, 2010, Mr. Letsch, who is not Debtors' counsel in this case unless he is replacing the Jones firm, filed a motion in this case for approval of a settlement and disbursal of funds. According to certificates of service attached to the motion and a notice of hearing, the motion and the notice of hearing were served on certain

attorneys who had appeared in the case, including Debtors' counsel, the Chapter 13 Trustee and the Internal Revenue Service.

Bankruptcy Rule 9019 provides that the court may approve a compromise on the motion of the trustee and that notice must be given in accordance with Bankruptcy Rule 2002. The Bankruptcy Code is somewhat fuzzy about the divided duties and responsibilities of the trustee and the debtor, who remains in possession of estate property, in a Chapter 13 case. I do not think it necessary for the Chapter 13 trustee to be a movant in a motion to compromise, however. Debtor has standing to bring the motion, but unless Mr. Letsch has replaced the Jones firm as Debtor's bankruptcy attorney, he should not have filed the motion.

The motion to compromise fails to allege facts that show the proposed settlement satisfies the elements a bankruptcy court must consider in order to approve it.

> When a bankruptcy court decides whether to approve or disapprove a proposed settlement, it must consider:
>
> > (a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

In re Justice Oaks II, Ltd., 898 F.2d 1544, 1549 (11th Cir. 1990).

Bankruptcy Rule 2002(a)(3) requires that notice of a proposed compromise be served on "all creditors." It is not necessary to serve the motion on every creditor, but the notice of the motion and hearing must set forth sufficient details of the claim being compromised and the terms of the compromise to permit creditors to analyze the proposed transaction and make an informed judgment whether it is fair, reasonable, and in the interest of the estate. The failure to serve such a notice on all creditors pursuant to Rule 2002(a)(3) requires starting over.

For these reasons, the motion to approve the proposed compromise is DENIED.

END OF ORDER