

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

US FIDELIS, INC.,

Debtor.

) In Proceedings Under Chapter 11
) Honorable Charles E. Rendlen III
)
) Case No.: 10-41902-705
)
) AMENDED MOTION TO MODIFY
) SETTLEMENT AGREEMENT
)
) Hearing Date: December 8, 2010
) Hearing Time: 9:30 a.m.
) Hearing Location: 7 South
)
) Spencer P. Desai
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AMENDED MOTION TO MODIFY SETTLEMENT AGREEMENT

COMES NOW Cory Atkinson and Heather Atkinson (“Atkinsons”), by and through counsel, and for their Amended Motion to Modify Settlement Agreement state to the Court as follows:

1. US Fidelis, Inc. (“USF”) is presently a Debtor-in-Possession under Chapter 11 of the United States Bankruptcy Code.
2. On or about September 29, 2010, Atkinsons, Debtor, and the Official Unsecured Creditors’ Committee of US Fidelis, Inc. (“Committee”) entered into a Settlement Agreement resolving litigation filed by the Debtor against Atkinsons. A copy of the Settlement Agreement is attached hereto as Exhibit A and incorporated herein by reference.
3. The Settlement Agreement was approved by the Court on October 22, 2010.

4. Paragraph 2 of the Settlement Agreement provides in relevant part: “At Closing, from the Assets transferred by the Atkinsons, the Estate shall transfer to Heather Atkinson the following assets: (c) vehicles with a NADA trade-in value of no more than \$50,000 in the aggregate.”

5. The Atkinsons seek to modify the terms of paragraph 2 of the Settlement Agreement.

6. The Atkinsons own the following vehicles as disclosed in their sworn financial statements:

- A. 2009 Cadillac Escalade
- B. 2009 Dodge Ram
- C. 2009 Jeep Wrangler
- D. 2008 Chevy Suburban
- E. 2005 Ford Mustang
- F. 2008 Mercedes C350
- G. 1996 Dodge Super Bee
- H. 2008 Harley Davidson VRCSCX
- I. 2009 Harley Davidson Limited

7. As part of the \$50,000 exemption (“Vehicle Exemption”), Heather Atkinson will keep the following vehicles:

- A. 2009 Dodge Ram - \$20,000
- B. 2008 Suburban - \$25,000
- C. 1969 Dodge Super Bee - \$7,281

The total value of these vehicles retained pursuant to the Vehicle Exemption is \$52,281.

8. Heather Atkinson proposes to pay the \$2,281 overage of the Vehicle Exemption in cash to the estate from the \$500,000 settlement proceeds due and owing her.

9. In addition, Heather Atkinson proposes to purchase from USF the following vehicles:

- A. 2005 Ford Mustang

- B. 2009 Cadillac Escalade
- C. 2009 Jeep Wrangler
- D. 2009 Harley Heritage
- E. **2008 Mercedes C350**

The total value of the vehicles Heather Atkinson proposes to purchase from the estate at the NADA value is **\$83,500**.

10. Heather Atkinson believes that her proposed purchase of these vehicles from the estate is in the best interest of the USF creditors.

11. Similar to a Chapter 7 bankruptcy proceeding, the purchase by Heather Atkinson of vehicles for NADA trade-in value is accepted practice and represents a financial gain to the creditors. The vehicles rarely bring the NADA value at sale and the purchase eliminates costs of sale.

12. At the closing of the settlement transaction, the Debtor retained \$85,781 from Heather Atkinson's \$500,000 distribution as escrow towards the purchase of these vehicles. The Debtor remains in possession of these funds.

WHEREFORE, Heather Atkinson prays this court make and enter its order granting the Atkinsons' request in authorizing modification of the Settlement Agreement to allow her purchase of the vehicles as set forth herein and for such other and further relief as the court deems just and proper.

Respectfully submitted,

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ATTORNEYS FOR INTERESTED PARTIES
CORY ATKINSON AND HEATHER ATKINSON

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by electronic filing in the CM/ECF system of the United States Bankruptcy Court for the Eastern District of Missouri or via U.S. Mail, postage prepaid, this 22nd day of November, 2010, to:

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