

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>In re:</b>	)	Misc. Proc. #18-204
<b>THE MATTER OF PROCEDURES</b>	)	
<b>FOR COMPLEX CHAPTER 11 CASES</b>	)	

**COMPLEX CHAPTER 11 CASE PROCEDURE ORDER**

Upon consideration of the recommendations of members of the bar of the Western District of Pennsylvania, the Court finds a need to implement policies and procedures to better serve the public and the bar in Complex Chapter 11 cases. Accordingly,

*AND NOW* this 15<sup>th</sup> day of October, 2018, it is hereby **ORDERED, ADJUDGED,** and **DECREED** that the following procedures shall be implemented in Complex Chapter 11 cases and to the extent that these procedures conflict with any other Local Bankruptcy Rules, this Order shall control:

I. (a) A "Complex Chapter 11 Case" is defined as a case filed in the Western District of Pennsylvania under Chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of factors, including, but not limited to, one (1) or more of the following factors:

- (i) the need for expedited hearings for consideration of case management and administrative orders, the use of cash collateral, debtor in possession financing, retaining professionals on an interim basis, maintaining existing bookkeeping systems, paying employees' wages and benefits, utility deposit orders for a limited period, and other matters vital to the survival of the business;
- (ii) the size of the case;
- (iii) the large number of parties in interest in the case;

- (iv) the fact that claims against the debtor and/or equity interests in the debtor are publicly traded;
- (v) the need for special noticing and hearing procedures.

(b) In all cases which the Debtor seeks to have a case designated as complex, counsel for the Chapter 11 Debtor shall file a Notice of Designation as Complex Case and shall utilize the following procedures to promote judicial economy as well as to enhance the procedural predictability for the Court, Chapter 11 Debtors, creditors and all interested parties in Complex Chapter 11 Cases. Upon the filing of the Notice of Designation, the case shall be deemed to be a Complex Chapter 11 Case unless and until ordered otherwise by the Court.

## **II. NOTICE OF FILING**

- (a) Notice of Proposed Filing to United States Trustee.

If possible, at least three (3) days prior to the anticipated filing date of a Complex Chapter 11 Case, the Debtor should notify the United States Trustee of the Debtor's intention to file such a Complex Chapter 11 Case.

- (b) Notice of Proposed "First Day Orders" to United States Trustee.

If possible, drafts of all First Day Motions, with the proposed orders attached as exhibits, should be furnished to the United States Trustee at least three (3) days in advance of the filing of the petition or as soon as practicable after the filing of the petition.

- (c) Notice of Proposed Filing to Clerk of Court.

If possible, at least three (3) days prior to the anticipated filing date of a Complex Chapter 11 Case, counsel for the Debtor, without disclosing the name of the Debtor, should contact

the Clerk of the Court to discuss the anticipated filing, the amount of the Debtor's assets, number and type of creditors, procedures for handling public inquiries (i.e., the names, addresses and telephone numbers of the persons to whom such inquiries should be directed), procedures for handling First Day Motions, claims and proofs of claim process, whether the Debtor will request the Court to set a last date to file proofs of claim or interest, and any other matter which may need particular attention given the nature of the Debtor and the Chapter 11 case. The Clerk of the Court will not assign the case to a judge until the petition is filed.

(d) Paper Copies Furnished to Assigned Judge.

As soon as practicable following filing of a Chapter 11 case, counsel for the Chapter 11 Debtor shall provide Chambers with the "First Day" binder of all filed First Day Motions including a copy of the Notice of Designation of Complex Chapter 11 Case and any proposed Orders and any responses or objections thereto, along with a proposed Agenda for the first-day hearing and an affidavit or declaration of a representative of the Debtor in support of the First Day Motions meeting the requirements set forth in Section IV below.

### **III. FIRST DAY ORDERS**

(a) Definition of "First Day Orders".

"First Day Orders" are orders which the Debtor seeks to have entered by the Court on or shortly after the filing of the petition and upon the filing of the Notice of Designation of Complex Chapter 11 Case.

(b) Purpose of First Day Orders.

Generally, the purpose of First Day Orders is to deal with administrative matters and to ensure that the Debtor's business and operations are stabilized and conducted in a manner consistent with past practice and to afford the Chapter 11 Debtor an opportunity to reorganize its affairs. While the Court recognizes the necessity and desirability of entertaining appropriate First Day Motions, the terms and conditions of First Day Orders necessarily will depend upon the facts and circumstances of the case, the notice given, and related factors, and will take into account the needs of the Debtor and the rights of other parties in interest.

However, each Judge shall arrange the Judge's calendar so that "First Day" emergency hearings, as requested in the court-approved form entitled Request for Expedited Consideration of Certain First Day Matters, can be conducted consistent with the Bankruptcy Code and Rules, including Rule 4001, as required by the circumstances, but not more than two business days after the request for emergency "First Day" hearings. If the Judge assigned to the Complex Chapter 11 Case is unable to hold hearings on any First Day Motions within (2) business days after request by the Debtor, the Court will make another Judge available to hold any First Day Motions within (2) days of the request by the Debtor and the Clerk shall notify counsel for the Debtor immediately thereof.

(c) Typical First Day Motions and Orders.

First Day Orders typically entertained by the Court on or within two (2) business day of the later of the petition date or the date of filing of the First Day Motions include (but are not limited to) the following:

- (1) Motion Under 11 U.S.C. § 363 for Interim Order Authorizing Debtor's Use of Cash Collateral on an Emergency Basis, pending a hearing, and providing adequate protection; see W.PA.LBR 4001-2.
- (2) Motion Under 11 U.S.C. § 364 for Interim Order Authorizing Debtor to Obtain Post-Petition Financing on an Emergency Basis, pending hearing; see W.PA.LBR 4001-2.
- (3) Motion for Order Directing Joint Administration of Debtors' Cases if more than one case is commenced.
- (4) Motion for Order Authorizing Debtor to Mail Initial Notices, including the Notice of Meeting of Creditors under 11 U.S.C. § 341(a).
- (5) Motion for Order extending Debtor's time for filing schedules and statement of financial affairs to a specified date.
- (6) Motion for Payment of Pre-Petition Amounts Owed to Critical Vendors.
- (7) Motion for Order Authorizing Employment and Payment without Fee Applications of Professionals used in ordinary course of business, not to exceed a specified individual and aggregate amount.
- (8) Motion for Order Establishing Procedures for Compensation and Reimbursement of Expenses of Professionals.
- (9) Motion for Order Authorizing Debtor to Maintain Existing Bank Accounts and Cash Management System, and to continue using existing business forms (including checks) without "debtor-in-possession" designation. Any motion should describe the proposed cash management system and, in cases where money will be transferred between Debtors or from a Debtor to a non-debtor affiliate, represent why such transfers are desirable from the Debtor's perspective that the Debtor(s) will maintain records of all post-petition intercompany transfers of funds and describe what repayment terms exist.
- (10) Motion Under 11 U.S.C. § 345(b) for Order Authorizing Debtor to Deviate from Enumerated Permitted Investments set forth in 11 U.S.C. § 345. Motion should disclose the amount of funds which the Debtor proposes to invest outside the statute's enumerated permitted investments and the proposed types of investments to be made. If the Debtor

proposes to invest or deposit money in or with an entity that has not satisfied the requirement of 11 U.S.C. § 345 (b) (a “Non-Qualified Entity”) the First Day Motion should demonstrate and explain why such an investment or deposit is necessary and, to the extent known, why the Non-Qualified Entity cannot or has not satisfied the requirements of 11 U.S.C. § 345(b).

- (11) Motion for an Order Authorizing Debtor to Pay (i) Pre-Petition Wages, Salaries and Commissions (including vacation, severance and sick leave pay) Earned by an Individual in an amount not to exceed specified per employee and aggregate amounts, which amounts shall be set forth in the Motion. If the Motion requests authority to pay amounts in excess of the amount set forth in 11 U.S.C. § 507(a)(4) per employee, then a list of the names and position/job titles of all employees as to whom those payments will be made shall be attached. However, the propriety of those requests shall be considered on a case by case basis. The Motion also shall state whether, and the extent to which, the claims proposed to be paid constitute priority claims under 11 U.S.C. § 507 (“Priority Claims”) and, if such claims are not Priority Claims, the Motion should explain why those claims should be afforded the treatment requested in the Motion. The Motion may also ask the Court to direct banks to honor prepetition checks for such amounts and authorize the Debtor to replace prepetition checks that have been dishonored.
- (12) Motion for an Order Authorizing Debtor to Pay Claims for Contribution to Employee Benefit Plans in an amount not to exceed a specified amount, which amount shall be set forth in the Motion. If the Motion requests authority to pay amounts in excess of the amounts set forth in 11 U.S.C. § 507(a)(5) (as modified by 11 U.S.C. § 104(b)), then a list of the names and position/job titles of all employees as to whom those payments will be made shall be attached. However, the propriety of those requests shall be considered on a case by case basis. The Motion also shall state whether, and the extent to which, the claims proposed to be paid constitute Priority Claims and, if such claims are not Priority Claims, the Motion should explain why those claims should be afforded the treatment requested in the Motion.
- (13) Motion for an Order Authorizing Debtor to Reimburse Employee Business Expenses in an amount not to exceed a specified amount per employee and not to exceed a specified

aggregate amount, which amounts shall be set forth in the Motion. The Motion also shall state whether, and the extent to which, the claims proposed to be paid constitute Priority Claims and, if such claims are not Priority Claims, the Motion should explain why those claims should be afforded the treatment requested in the Motion.

- (14) Motion for an Order Authorizing Debtor to Honor Pre-Petition Customer Claims (e.g., refund of deposits, lay-away plans) and Warranties, not to exceed specified aggregate and per claimant amounts, which amounts shall be set forth in the Motion. The Motion also shall state whether, and the extent to which, the claims proposed to be paid constitute Priority Claims and, if such claims are not Priority Claims, the Motion should explain why those claims should be afforded the treatment requested in the Motion.
- (15) Motion for an Order Authorizing Continued Performance without Assumption under Key Executory Contracts, including payment of prepetition amounts due and owing thereunder in an amount not to exceed specified aggregate and per claimant amounts. The Motion shall list and state all contracts subject to the motion and whether, and the extent to which, the claims proposed to be paid are believed to be Priority Claims and, if such claims are not Priority Claims, the Motion should explain why those claims should be afforded the treatment requested in the Motion.
- (16) Motion for Interim Order Prohibiting Utilities from Altering, Refusing or Discontinuing Service on Account of Pre-Petition Claims and Establishing Procedures for Determining Requests for Additional Adequate Assurance.
- (17) Motion for an Order Authorizing Retention and Appointment of Claims and Noticing Agent under 28 U.S.C. §156(c) and 11 U.S.C. §105(a).
- (18) Motion for an Order Authorizing the Employment and Retention of Administrative Agent.

#### IV. ADDITIONAL IMPLEMENTATION CONSIDERATIONS

The following “Attachments” reflect considerations, rules, forms and policy statements to be used in further compliance with the foregoing procedures for Complex Chapter 11 Cases affected by this Standing Order. *Attachment “A”* while intended to be followed in any complex Chapter 11 case heretofore filed in the Western District of Pennsylvania, will become a formal Western District of Pennsylvania Local Rule at a later time. It is intended that the forms found at *Attachment “B”* and *Attachment “D”* be utilized by Debtor(s) to obtain the relief represented by the narrative reflected in the *Attachment*.

- (a) *Attachment “A”* – Affidavit of Debtor (in support of First Days)
- (b) *Attachment “B”* – Claim and Noticing Agent Protocol
- (c) *Attachment “C”* – Interim Compensation
- (d) *Attachment “D”* – Case Management Order

  
CHIEF JUDGE CARLOTA M. BÖHM,  
UNITED STATES BANKRUPTCY COURT



Affidavit of Debtor (in Support of First Days)

***Attachment “A”***

In a case designated as a Complex Chapter 11 Case, the principal debtor shall file an affidavit of an authorized representative with knowledge containing the following:

- (1) A description of the debtor's business and operations including where such operations are located;
- (2) A statement of the reasons for the filing;
- (3) A description of the debtor's organization chart and corporate structure;
- (4) A summary of the debtor's capital structure, including a description of its secured and unsecured debt;
- (5) A statement identifying the number of the debtor's employees, and the location of those employees and whether any are members of a union;
- (6) A statement as to what, if any, retiree benefit or pension obligations that the debtor has and the funding status;
- (7) A description of any proposed financing and/or use of cash collateral;
- (8) A description of the "first-day" motions for which the debtor is seeking approval.

## Claim and Noticing Agent Protocol

***Attachment “B”***

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PROTOCOL FOR THE EMPLOYMENT OF CLAIMS AND NOTICING AGENTS**

**UNDER 28 U.S.C. §156(c)**

An application seeking to retain a claims and noticing agent under 28 U.S.C. § 156(c) [“Section 156(c) Application”] should be limited in scope to those duties that would be performed by a Clerk of Court with respect to providing notice and processing claims (such as maintaining a claims register). The Section 156(c) Application should exclude those duties that would *not* be performed by a Clerk of Court, for example, duties involving the preparation of schedules, acting as balloting and tabulation agent, or distributing assets pursuant to a confirmed plan of reorganization; such services should be the subject of a *separate* application to and order of the Court.

To ensure the use of a competitive process in the selection of claims and noticing agents in instances where the Court has authorized such use under 28 U.S.C. § 156(c), the following protocol have been established for this Court:

- (1) A debtor or trustee seeking to retain a claims and noticing agent under chapter 7, 11 or 15 shall obtain and review engagement proposals from at least three (3) qualified claims and noticing agents.
- (2) An application for retention of a claims and noticing agent shall contain an affirmative statement, under penalty of perjury and Fed. R. Bankr. P. 9011, that the applicant chose the claims and noticing agent after the review and competitive comparison of at least three (3) proposals.
- (3) As a condition of retention, the claims and noticing agent has a duty to comply with all relevant statutory provisions and rules of procedure, including local rules of procedure, general orders and applicable guidelines.

- (4) As a condition of retention, the claims and noticing agent shall agree to maintain records of all services which, at a minimum, will show dates, categories of services, fees charged, and expenses incurred.
- (5) The fee structure shall be included in the engagement agreement. The engagement agreement shall be annexed to the application for retention.
- (6) The claims and noticing agent shall serve monthly invoices on the committee, if any, monitoring the expenses of the debtor, and any party-in-interest who requests service of the monthly invoices.
- (7) If requested by the claims and noticing agent, the debtor or trustee may pay an agreed sum as a retainer to cover fees and expenses such as postage, printing, publication, etc.
- (8) If any dispute arises relating to an engagement agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute. If resolution is not achieved, the parties may seek resolution of the matter from the Court.
- (9) Debtor's counsel shall notify both the Clerk's Office and the claims and noticing agent within seven (7) days of an order of dismissal or conversion of the case.
- (10) At the end of a case or upon termination of the claims and noticing agent's services, the debtor or the trustee must obtain a termination order to terminate the services of the claims and noticing agent. The claims and noticing agent is responsible for archiving the claims with the Federal Archives Record Administration, if applicable.

Other than the specific obligations of the applicant, debtor or the trustee set forth above in paragraphs 1, 2, 9 and 10, the failure to comply with the duties set out in this Protocol, as applicable, and with the provisions set out in a Section 156(c) Application and order may lead to removal of the claims and noticing agent's name from the list of approved agents. Claims and noticing agents should be a disinterested person as that term is defined in Section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.

Dated: \_\_\_\_\_

Michael Rhodes  
Clerk of Court

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	
	:	
	:	

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**DEBTORS' APPLICATION PURSUANT TO 11 U.S.C. § 327(a) AND  
FED. R. BANKR. P. 2014 FOR ENTRY OF AN ORDER AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF \_\_\_\_\_, \_\_\_\_ AS  
ADMINISTRATIVE AGENT, *NUNC PRO TUNC* TO THE RELIEF DATE**

\_\_\_\_\_ ("\_\_\_\_\_")

and its debtor affiliates, as debtors and debtors in possession (collectively, the "***Debtors***"), respectfully file this application (the "***Section 327 Application***"), for the entry of an order substantially in the form attached hereto as **Exhibit A** (the "***Order***"), authorizing the employment and retention of \_\_\_\_\_. ("Administrative Agent"), as *Administrative Agent nunc pro tunc* to the Relief Date (as defined below). In support of the Section 327 Application, the Debtors submit the declaration of \_\_\_\_\_, \_\_\_\_\_(title) (the "**\_\_\_\_\_ Declaration**") attached hereto as **Exhibit B**. A true and correct copy of the retention agreement between the *Administrative Agent* and the Debtors (the "***Retention Agreement***") is attached hereto as **Exhibit 1** to **Exhibit A**. In further support of this Section 327 Application, the Debtors respectfully state as follows:

### **Background**

(1) On the \_\_\_\_\_, (the “**Relief Date**”), the Debtors filed for relief commencing chapter 11 cases for each of the Debtors. The Debtors are authorized to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of title 11 of the United States Code (the “**Bankruptcy Code**”).<sup>1</sup>

### **Jurisdiction**

(2) The Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Relief Requested**

(3) Pursuant to Bankruptcy Code sections 327(a), 328(a), 330 and 331, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Standing Order dated \_\_\_\_\_ or Local Bankruptcy Rule of the Western District of Pennsylvania (the “**Local Bankruptcy Rules**”), the Debtors file this Section 327 Application.

(4) Prior to filing this Section 327 Application, the Debtors filed an application under 28 U.S.C. § 156(c) for authorization to retain the *Administrative Agent* to serve as the notice and claims agent in these cases (the “**Section 156(c) Application**”). The Court approved the Section 156(c) Application on \_\_\_\_\_ [Docket No. \_\_\_\_] (the “**Section 156(c) Order**”).

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<sup>1</sup> Information regarding the Debtors’ business and the background of these chapter 11 cases can be found in the Declaration of \_\_\_\_\_ Pursuant to Standing Order dated \_\_\_\_\_ or W.P.A LBR \_\_\_\_\_ of the Local Bankruptcy Rules for the Western District of Pennsylvania in Support of First-Day Pleadings (the “**First Day Declaration**”) filed on the Relief Date.

(5) In accordance with 28 U.S.C. § 156(c), the Section 156(c) Order was limited to authorizing the *Administrative Agent* to perform only notice and claim-related functions. However, given that the administration of these cases will require the *Administrative Agent* to perform duties beyond the distribution of notices and the processing of claims, and therefore perform duties beyond the scope authorized by 28 U.S.C. § 156(c) and the Section 156(c) Order, the Debtors have filed this Section 327 Application as a supplement to the Section 156(c) Application. For the avoidance of doubt, the *Administrative Agent* is not seeking any additional compensation pursuant to this Section 327 Application.

(6) 11 U.S.C. § 327(a) provides that a debtor, subject to court approval:

[M]ay employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the [debtor] in carrying out the [debtor]'s duties under this title.

11 U.S.C. § 327(a).

(7) Bankruptcy Rule 2014(a) requires that an application for retention include:

[S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

FED. R. BANKR. P. 2014.



(8) In particular, the Debtors seek to retain the *Administrative Agent* to provide, among other things, the following bankruptcy administrative services, if and to the extent requested:

- (a) Create and maintain a publicly-accessible case administration website, \_\_\_\_\_ containing information about the Debtors, these cases, and their restructuring, including but not limited to the posting of a claim register, key pleadings, scheduled hearings, and press releases;
- (b) Host a toll-free telephone hotline, (800) xxx-xxxx, that provides information regarding the cases;
- (c) To the extent necessary, assist with the preparation and filing of the Debtors' schedules of assets and liabilities and statement of financial affairs;
- (d) Respond to creditor inquiries via telephone, letter, e-mail or facsimile, as appropriate; Generate and provide claim reports and claim objection exhibits, as requested by the Debtors and their professionals;
- (e) Manage the preparation, compilation, and mailing of documents to creditors and other parties in interest in connection with the solicitation of a chapter 11 plan (a "*Plan*");
- (f) Manage the publication of legal notices, as requested;
- (g) Collect and tabulate votes in connection with any Plan filed by the Debtors and provide ballot reports to the Debtors and their professionals;
- (h) Generate an official ballot certification and testify, if necessary, in support of the ballot tabulation results; and
- (i) Manage any distributions made pursuant to a confirmed Plan.

### **Retention of Administrative Agent**

(9) Although the Debtors have not yet filed their schedules of assets and liabilities, the Debtors anticipate that there will be in excess of \_\_\_\_\_ entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtors' business, the Debtors submit that the appointment of an *Administrative Agent* is both necessary and in the best interests of both the Debtors' estates and their creditors.

(10) The *Administrative Agent* has provided administrative services in numerous cases of comparable size and complexity, including several cases which are currently pending in the United States Bankruptcy Court for the Western District of Pennsylvania. *See, e.g.*, (List cases). The *Administrative Agent's* expertise allows it to provide such services with effectiveness and efficiency.

(11) The Debtors submit that the *Administrative Agent* will provide the most cost-effective and efficient administrative service for these cases. The Debtors chose the *Administrative Agent* based on its experience, reputation and the competitiveness of its fees. Accordingly, the Debtors believe that the *Administrative Agent* is well-qualified to serve in the capacity of administrative agent, and that the *Administrative Agent's* retention in such capacity is in the best interests of the Debtors' estates and their creditors.

(12) By appointing \_\_\_\_\_ as the *Administrative Agent* in these cases, the administration of these cases will be expedited, so the Debtors and the Debtors' professionals will be relieved of handling certain administrative burdens necessary for the successful prosecution of the cases.

### Compensation

(13) The *Administrative Agent* intends to apply to the Court for allowances of compensation and reimbursement of out-of-pocket expenses incurred after the Relief Date in connection with these cases, subject to Court approval and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the guidelines established by the United States Trustee for the Western District of Pennsylvania (the “*U.S. Trustee*”) and further orders of this Court.

(14) The *Administrative Agent* has informed the Debtors that, subject to Court approval, it will bill at its standard hourly rates, which currently are \$\_\_\_\_\_ - \$\_\_\_\_\_ for senior management, \$\_\_\_\_\_ - \$\_\_\_\_\_ for project managers, and \$\_\_\_\_\_ - \$\_\_\_\_\_ for administrative and clerical staff.

(15) The Debtors believe that these rates are consistent with market rates for comparable services. These hourly rates are subject to periodic adjustments (typically in January of each year) to reflect economic and other conditions. The *Administrative Agent* will maintain detailed records of actual and necessary costs and expenses incurred in connection with the legal services described above.

(16) The *Administrative Agent* has received an initial retainer of \$\_\_\_\_\_ from the Debtors for its services under this Section 327 Application and the Section 156(c) Application, and will apply any unused portion of that retainer first against all pre-Relief Date fees and expenses and then against the first application for fees and expenses that \_\_\_\_\_ will submit in these cases.

### **Disinterestedness**

(17) To the best of the Debtors' knowledge, except as disclosed in the \_\_\_\_\_ Declaration, \_\_\_\_\_ (i) does not have any adverse connection with the Debtors, the Debtors' creditors or any other party in interest or its respective attorneys and accountants, or the United States Trustee; and (ii) does not hold or represent an interest adverse to the Debtors' estate.

(18) Based on the \_\_\_\_\_ Declaration and to the best of the Debtors' knowledge, other than in connection with these cases, neither \_\_\_\_\_ nor any employee thereof has any connection with the Debtors, their creditors, the United States Trustee or any other party in interest herein; it is a "disinterested person," as that term is defined in Bankruptcy Code section 101(14); and it does not hold or represent any interest adverse to the Debtors' estate, except as set forth herein and in the \_\_\_\_\_ Declaration.

(19) Prior to the Relief Date, the *Administrative Agent* performed certain professional services for the Debtors in accordance with the Retention Agreement. Except as set forth in Paragraph 16 above, the Debtors do not owe \_\_\_\_\_ any amount for services performed or expenses incurred prior to the Relief Date.

(20) To the extent there is any inconsistency between this Section 327 Application, the Retention Agreement, and the Order approving the Section 327 Application, the Order shall control. The *Administrative Agent* will conduct an ongoing review of its files to ensure that no conflict or other disqualifying circumstances exist or arise. If any new facts or relations are discovered, the *Administrative Agent* will supplement its disclosure to the Court.

### Notice

(21) No trustee, examiner or creditors' committee has been appointed in these chapter 11 cases. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the Western District of Pennsylvania; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) \_\_\_\_\_, counsel to the agent under the Debtors' prepetition secured term loan; (d) \_\_\_\_\_, counsel to \_\_\_\_\_ and \_\_\_\_\_; (e) \_\_\_\_\_, counsel to \_\_\_\_\_ and \_\_\_\_\_; (f) the Internal Revenue Service; (g) the Securities and Exchange Commission; and (h) the Federal Communications Commission. A copy of this Motion is also available on \_\_\_\_\_'s website, at (\_\_\_\_\_).

In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, the Debtors request entry of an order, in the form annexed hereto, (i) authorizing \_\_\_\_\_ to act as administrative agent as requested herein; and (ii) granting the Debtors such other and further relief as is just, proper and equitable.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Counsel for the Debtors)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**ORDER PURSUANT TO 11 U.S.C. § 327(a) AND FED.  
R. BANKR. P. 2014 AUTHORIZING THE EMPLOYMENT  
AND RETENTION OF \_\_\_\_\_ AS  
ADMINISTRATIVE AGENT, *NUNC PRO TUNC* TO THE RELIEF DATE**

Upon consideration of the Section 327 Application (the "***Section 327 Application***") (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Section 327 Application) of \_\_\_\_\_ ("\_\_\_\_\_") and its debtor subsidiaries as debtors and debtors in possession (collectively, the "***Debtors***") seeking entry of an order pursuant to sections 327(a), 328(a), 330, and 331 of title 11 of the United States Code (the "***Bankruptcy Code***") and Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") and Standing Order dated \_\_\_\_ or Local Bankruptcy Rule of the Western District of Pennsylvania (the "***Local Bankruptcy Rules***") authorizing the retention of \_\_\_\_\_, Inc. ("\_\_\_\_\_") as administrative agent in the Debtors' chapter 11 cases on the terms and conditions set forth in the agreement between the Debtors and \_\_\_\_\_ (the "***Retention Agreement***"), attached hereto as **Exhibit 1** and all as described more fully in the Section 327 Application; and upon the Declaration of \_\_\_\_\_,

\_\_\_\_\_'s \_\_\_\_\_(title), submitted in support of the Section 327 Application (the "\_\_\_\_\_**Declaration**"); and the Debtors having estimated that the size and complexity of these cases warrants the retention of an agent to assist with certain administrative duties; and the Court being satisfied that \_\_\_\_\_ has the capability and experience to provide such services and that \_\_\_\_\_ does not hold an interest adverse to the Debtors or their estates respecting the matters upon which it is to be engaged; and it appearing that the Court has jurisdiction to consider the Section 327 Application and the relief requested therein in accordance with 28 U.S.C. § 1334; and it appearing that this matter is core pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O); and it appearing that venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that \_\_\_\_\_ is disinterested and eligible for retention pursuant to Bankruptcy Code sections 101(14) and 327(a) and that the terms of the Retention Agreement are reasonable and appropriate; and good and sufficient notice of the Section 327 Application having been given and no other or further notice being required; and it appearing that the employment of \_\_\_\_\_ is in the best interests of the Debtors, their estates, their creditors, and all parties in interest; and after due deliberation and sufficient cause appearing therefore,

**AND NOW**, this \_\_\_\_ *day of* \_\_\_\_ 20\_\_, it is hereby **ORDERED, ADJUDGED**  
**AND DECREED** that:

- (1) The Section 327 Application is granted to the extent set forth herein.
- (2) The Debtors are authorized to employ and retain \_\_\_\_\_ as their *Administrative Agent* on the terms and conditions set forth in the Retention Agreement.
- (3) \_\_\_\_\_ is authorized to provide the administrative services warranted in these cases, including:

- (a) Creating and maintaining a publicly-accessible case administration website, \_\_\_\_\_ containing information about the Debtors, these cases, and their restructuring, including but not limited to the posting of a claim register, key pleadings, scheduled hearings, and press releases;
- (b) Hosting a toll-free telephone hotline, (800) xxx-xxxx, that provides information regarding these cases;
- (c) To the extent necessary, assisting with the preparation and filing of the Debtors' Schedules of Assets and Liabilities and the Statement of Financial Affairs;
- (d) Responding to creditor inquiries via telephone, letter, e-mail or facsimile, as appropriate;
- (e) Generating and providing claim reports and claim objection exhibits, as requested by the Debtors and their professionals;
- (f) Managing the preparation, compilation, and mailing of documents to creditors and other parties in interest in connection with the solicitation of a chapter 11 plan (a "**Plan**");
- (g) Managing the publication of legal notices, as requested;
- (h) Collecting and tabulating votes in connection with any and all Plans filed by the Debtors and providing ballot reports to the Debtors and their professionals;
- (i) Generating an official ballot certification and testifying, if necessary, in support of the ballot tabulation results; and
- (j) Managing any distribution pursuant to a confirmed Plan.

(4) \_\_\_\_\_ is authorized to take such other action to comply with all duties set forth in the Section 327 Application.

(5) Notwithstanding anything to the contrary in the Retention Agreement, the retainer shall not be replenished after the Relief Date.

(6) \_\_\_\_\_ shall apply to the Court for allowances of compensation and reimbursement of out-of-pocket expenses incurred in these cases after the Relief



Date in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, (General Order in One), the guidelines established by the United States Trustee for the Western District of Pennsylvania and further orders of this Court. \_\_\_\_\_ will apply any unused portion of the retainer received from the Debtors first against all pre-Relief Date fees and expenses and then against the first application for fees and expenses that \_\_\_\_\_ will submit in these cases. If \_\_\_\_\_'s fees increase from the fees of the Retention Agreement, \_\_\_\_\_ shall file an affidavit with the Court describing such increases.

(7) In the event of an inconsistency between the Section 327 Application, Retention Agreement, and this Order, this Order shall govern.

(8) Notwithstanding any provision in this Order to the contrary, any payment authorized to be made, or any other authorization contained hereunder, shall be and hereby is subject in all respects to the terms and provisions of any and all orders of this Court authorizing the Debtors' use of cash collateral, including, without limitation, any budget(s) approved by the Court in connection therewith.

(9) This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or related to the implementation of this Order.

UNITED STATES BANKRUPTCY JUDGE

\_\_\_\_\_

Date: \_\_\_\_\_, 2018

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**DECLARATION OF \_\_\_\_\_ IN SUPPORT OF  
DEBTORS' APPLICATION PURSUANT TO 11 U.S.C. § 327(a)  
AND FED. R. BANKR. P. 2014 FOR AN ORDER AUTHORIZING THE  
EMPLOYMENT AND RETENTION OF \_\_\_\_\_ AS  
ADMINISTRATIVE AGENT, *NUNC PRO TUNC* TO THE RELIEF DATE**

I, \_\_\_\_\_, being duly sworn, depose and state:

(1) I am a \_\_\_\_\_ (title) of \_\_\_\_\_,  
("\_\_\_\_\_"), and I am authorized to make and submit this declaration on behalf of  
\_\_\_\_\_. This declaration is submitted in support of the application (the "**Section 327  
Application**") of \_\_\_\_\_ ("\_\_\_\_\_") and its debtor  
affiliates, as debtors and debtors in possession (collectively, the "**Debtors**"), pursuant to sections  
327(a), 328(a), 330, and 331 of title 11 of the United States Code (the "**Bankruptcy Code**"), Rules  
2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and  
Standing Order dated \_\_\_\_ or Local Bankruptcy Rules for the Western District of Pennsylvania  
(the "**Local Bankruptcy Rules**") for authorization to retain \_\_\_\_\_ as the official

administrative agent (“*Administrative Agent*”) for the above-captioned chapter 11 cases (the “*Cases*”). The statements contained herein are based upon personal knowledge.

(2) On \_\_\_\_\_ (the “\_\_\_\_\_”), chapter 11 petitions (the “\_\_\_\_\_”) were \_\_\_\_\_ (collectively, the “*Petitioning Creditors*”).<sup>2</sup>

(3) On \_\_\_\_\_ (the “*Relief Date*”), was entered \_\_\_\_\_.

(4) Prior to filing this Section 327 Application, the Debtors filed an application under 28 U.S.C. § 156(c) for authorization to retain the *Administrative Agent* to serve as the notice and claims agent in these Cases (the “*Section 156(c) Application*”). The Court approved the Section 156(c) Application on \_\_\_\_\_ [Docket No. \_\_\_\_].

(5) The *Administrative Agent* is one of the country’s leading chapter 11 administrators and is well-qualified to provide experienced administrative services in connection with these Cases. The *Administrative Agent* is or was retained in this jurisdiction to provide administrative assistance in a number of large cases. *See, e.g.*, (List cases).

(6) The Debtors selected \_\_\_\_\_ to serve as the *Administrative Agent* for the Debtors’ estates, as set forth in more detail in the Section 327 Application filed contemporaneously herewith. To the best of my knowledge, neither the *Administrative Agent*, nor any of its professional personnel, have any relationship with the Debtors that would impair the *Administrative Agent*’s ability to serve as *Administrative Agent*. The *Administrative Agent* does have connections to some of the Debtors’ creditors in matters completely unrelated to these Cases, either as vendors or in cases where the *Administrative Agent* serves in a neutral capacity as a class action settlement claims administrator or bankruptcy administrator. The *Administrative Agent*’s assistance in the cases where the *Administrative Agent* acts as a class action settlement claims administrator has

been primarily related to the design and dissemination of legal notice and other administrative functions in class actions.

(7) The *Administrative Agent* has working relationships with certain of the professionals retained by the Debtors and other parties in interest, but such relationships are completely unrelated to the Debtors and these Cases. The *Administrative Agent* has and will continue to represent clients in matters unrelated to the Debtors and these Cases and has had and will continue to have relationships in the ordinary course of its business with certain vendors and professionals in connection with matters unrelated to these Cases.

(8) \_\_\_\_\_ is a “disinterested person,” as that term is defined in section 101(14) of the Bankruptcy Code, in that except as set forth in Paragraph 10, below, the *Administrative Agent* and its professional personnel:

- (a) are not creditors, equity security holders or insiders of the Debtors;
- (b) are not and were not, within two years before the date of the filing of these Cases, directors, officers or employees of the Debtors; and
- (c) do not have an interest materially adverse to the interests of the Debtors’ estate or any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors.

(9) The *Administrative Agent* has not been retained to assist any entity or person other than the Debtors on matters relating to, or in connection with, these Cases. If the *Administrative Agent*’s proposed retention is approved by this Court, the *Administrative Agent* will not accept any engagement or perform any service for any entity or person other than the Debtors in these Cases unless expressly authorized by the Debtors and their professionals. The *Administrative Agent* may, however, provide professional services to entities or persons that are creditors or parties in interest

in these Cases, which services do not relate to, or have any direct connection with, these Cases or the Debtors.

(10) The *Administrative Agent* has received a \$\_\_\_\_\_ retainer from the Debtors for its services under this Section 327 Application and the Section 156(c) Application, and will apply any unused portion of that retainer against all pre-Relief Date fees and expenses and then against the first application for fees and expenses that the *Administrative Agent* will submit in these Cases.

(11) Subject to the Court's approval, the Debtors have agreed to compensate the *Administrative Agent* for professional services rendered in these Cases outside the scope of section 156(c) of title 28 of the United States Code pursuant to the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, (General Order if one), the guidelines established by the United States Trustee for the Western District of Pennsylvania, and further orders of this Court.

(12) In connection with the Section 156(c) Application, I submitted a copy of the list of those parties searched in \_\_\_\_\_'s conflict database (the "***Searched Parties***"). I refer the Court to my \_\_\_\_\_ declaration in support of the Section 156(c) Application for a list of the Searched Parties and reaffirm my representation that none of the Searched Parties appeared in \_\_\_\_\_'s conflict database.

/s/ \_\_\_\_\_

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**APPLICATION FOR AN ORDER APPOINTING [name of claims  
and noticing agent] AS CLAIMS AND NOTICING AGENT FOR  
THE DEBTORS PURSUANT TO 28 U.S.C. § 156(c), 11 U.S.C. §  
105(a), AND (local rule)**

The Debtors and Debtors in possession in the above-captioned cases (collectively, the "Debtors") hereby move for entry of an order, substantially in the form of Exhibit C hereto (the "Retention Order") pursuant to section 156(c) of title 28 of the United States Code and section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), appointing [name of claims and noticing agent] as claims and noticing agent ("Claims and Noticing Agent") in the Debtors' chapter 11 cases (the "Section 156(c) Application"). In support of the Section 156(c) Application, the Debtors respectfully represent as follows:

**JURISDICTION AND VENUE**

(1) The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

### **RELIEF REQUESTED**

(2) This Section 156(c) Application is made pursuant to 28 U.S.C. § 156(c), section 105(a) of the Bankruptcy Code, and (local rule) for an order appointing Claims and Noticing Agent to act as the claims and noticing agent in order to assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in the Debtors' chapter 11 cases. The Debtors' selection of Claims and Noticing Agent to act as the claims and noticing agent has satisfied the Court's *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)*, in that the Debtors have obtained and reviewed engagement proposals from at least three (3) other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that Claims and Noticing Agent's rates are competitive and reasonable given Claims and Noticing Agent's quality of services and expertise. The terms of retention are set forth in the Engagement Agreement annexed hereto as Exhibit A (the "Engagement Agreement"); provided, however, that Claims and Noticing Agent is seeking approval solely of the terms and provisions as set forth in this Application and the proposed order attached hereto.

(3) Although the Debtors have not yet filed their schedules of assets and liabilities, they anticipate that there will be in excess of [\_\_\_\_\_] entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtors' businesses, the Debtors submit that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtors' estates and their creditors.

(4) By appointing Claims and Noticing Agent as the claims and noticing agent in these chapter 11 cases, the distribution of notices and the processing of claims will be expedited,

and the clerk's office will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of this Section 156(c) Application, the Debtors submit the Claims and Noticing Agent's affidavit attached hereto as Exhibit B (the "Claims and Noticing Agent Affidavit").

(6) This Section 156(c) Application pertains only to the work to be performed by Claims and Noticing Agent under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and (local rule), and any work to be performed by Claims and Noticing Agent outside of this scope is not covered by this Section 156(c) Application or by any Order granting approval hereof. Specifically, Claims and Noticing Agent will perform the following tasks in its role as claims and noticing agent (the "Claims and Noticing Services"), as well as all quality control relating thereto:

- (a) Prepare and serve required notices and documents in the chapter 11 cases in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") in the form and manner directed by the Debtors and/or the Court, including (i) notice of the commencement of the chapter 11 cases and the initial meeting of creditors under Bankruptcy Code § 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a disclosure statement and confirmation of the Debtors' plan or plans of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan and (vii) all other notices, orders, pleadings, publications and other documents as the Debtors or Court may deem necessary or appropriate for an orderly administration of the chapter 11 cases.
- (b) Maintain an official copy of the Debtors' schedules of assets and liabilities and statement of financial affairs (collectively, "Schedules"), listing the Debtors' known creditors and the amounts owed thereto;
- (c) Maintain (i) a list of all potential creditors, equity holders and other parties-in-interest; and (ii) a "core" mailing list consisting of all parties described in sections 2002(i), (j) and



(k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update said lists and make said lists available upon request by a party-in-interest or the Clerk;

- (d) Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify said potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;
- (e) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (f) For *all* notices, motions, orders or other pleadings or documents served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;
- (g) Process all proofs of claim received, including those received by the Clerk's Office, and check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- (h) Maintain the official claims register for each Debtor (the "Claims Registers") on behalf of the Clerk on a case specific website; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc.*), (vi) the applicable Debtor, and (vii) any disposition of the claim;
- (i) Provide public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge;

- (j) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (k) Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (l) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Claims and Noticing Agent, not less than weekly;
- (m) Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the Claims Registers for the Clerk's review (upon the Clerk's request)
- (n) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the Claims Registers;
- (o) Assist in the dissemination of information to the public and respond to requests for administrative information regarding the case as directed by the Debtors or the Court, including through the use of a case website and/or call center.
- (p) If the case is converted to chapter 7, contact the Clerk's Office within three (3) days of the notice to Claims and Noticing Agent of entry of the order converting the case;
- (q) Thirty (30) days prior to the close of these cases, to the extent practicable, request that the Debtors submit to the Court a proposed Order dismissing the Claims and Noticing Agent and terminating the services of such agent upon completion of its duties and responsibilities and upon the closing of these cases;
- (r) Within seven (7) days of notice to Claims and Noticing Agent of entry of an order closing the chapter 11 cases, provide to the Court the final version of the Claims Registers as of the date immediately before the close of the chapter 11 cases; and
- (s) At the close of these cases, box and transport all original documents, in proper format, as provided by the Clerk's Office, to (i) the Federal Archives Record Administration, located at **Central Plains Region, 200 Space Center Drive, Lee's Summit, MO 64064** or (ii) any other location requested by the Clerk's Office.

(6) Claims and Noticing Agent shall not employ any past or present employee of the Debtors for work that involves the Debtors' bankruptcy cases.

(7) The Debtors respectfully request that the undisputed fees and expenses incurred by Claims and Noticing Agent in the performance of the above services be treated as administrative expenses of the Debtors' chapter 11 estates pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 503(b)(1)(A) and be paid in the ordinary course of business without further application to or order of the Court. Claims and Noticing Agent agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and to serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

(8) Prior to the Petition Date, the Debtors provided Claims and Noticing Agent a retainer in the amount of \$\_\_\_\_\_. Claims and Noticing Agent seeks to first apply the retainer to all pre-petition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

(9) In connection with its retention as claims and noticing agent, Claims and Noticing Agent represents in the Claims and Noticing Agent Affidavit, among other things, that:

- (a) Claims and Noticing Agent will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in the Chapter 11 Cases;
- (b) By accepting employment in the Chapter 11 Cases, Claims and Noticing Agent waives any rights to receive compensation from the United States government in connection with the Debtors' chapter 11 cases;
- (c) In its capacity as the claims and noticing agent in the Chapter 11 Cases, Claims and Noticing Agent will not be an agent of the United States and will not act on behalf of the United States; and
- (d) It is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.

(10) To the extent that there is any inconsistency between this Application, the Retention Order and the Engagement Agreement, the Retention Order shall govern.

(11) This Section 156(c) Application complies with the *Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)* and conforms to the standard Section 156(c) Application in use in this Court. The Debtors have provided copies of this Section 156(c) Application to the Clerk of Court and to the United States Trustee [ADD ADDITIONAL NOTICE PARTIES AS APPROPRIATE] and submit that no further notice is necessary under the circumstances.

WHEREFORE, the Debtors request entry of an order, in the form annexed hereto as Exhibit C, authorizing [*name of claims and noticing agent*] to act as claims and noticing agent for the maintenance and processing of claims and the distribution of notices.

Dated: \_\_\_\_\_, 2018

*Attorneys for Debtors or Debtors in Possession*

By: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**ORDER AUTHORIZING RETENTION AND APPOINTMENT  
OF [name of claims and noticing agent] AS CLAIMS AND NOTICING  
AGENT UNDER 28 U.S.C. § 156(c), 11 U.S.C. § 105(a), AND (local rule)  
AND GRANTING RELATED RELIEF**

Upon the application (the "Application") of [name of Debtors], Debtors and Debtors in possession (the "Debtors"), for an order authorizing the retention and appointment of [name of claims and noticing agent] as Claims and Noticing Agent ("Claims and Noticing Agent"), under 28 U.S.C. § 156(c), Section 105(a) of the Bankruptcy Code<sup>2</sup>, and (local rule) to, among other things, (i) distribute required notices to parties in interest, (ii) receive, maintain, docket and otherwise administer the proofs of claim filed in the Debtors' chapter 11 cases, and (iii) provide such other administrative services – as required by the Debtors – that would fall within the purview of services to be provided by the Clerk's Office and upon the affidavit of \_\_\_\_\_ submitted in support of the Application; and the Debtors having estimated that there are in excess of [\_\_\_\_\_] creditors in these chapter 11 cases, many of

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Application.

which are expected to file proofs of claim, and it appearing that the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome for the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtors' expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that Claims and Noticing Agent has the capability and experience to provide such services and that Claims and Noticing Agent does not hold an interest adverse to the Debtors or the estates respecting the matters upon which it is to be engaged; and good and sufficient notice of the Application having been given; and no other or further notice being required; and it appearing that the employment of Claims and Noticing Agent is in the best interests of the Debtors, the estates and creditors; and sufficient cause appearing therefore,

**AND NOW** this \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_, it is hereby **ORDERED, ADJUDGED, and DECREED** that:

(1) Notwithstanding the terms of the Engagement Letter attached to the Application, the Application is approved solely as set forth in this Order.

(2) The Debtors are authorized to retain Claims and Noticing Agent effective [date] under the terms of the Engagement Agreement, and Claims and Noticing Agent is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in these chapter 11 cases, and all related tasks, all as described in the Application (the "Claims and Noticing Services").

(3) The Claims and Noticing Agent shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official Claims Registers for each of the

Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.

(4) The Claims and Noticing Agent is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

(5) The Claims and Noticing Agent is authorized to take such other action to comply with all duties set forth in the Application.

(6) The Debtors are authorized to compensate Claims and Noticing Agent in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by Claims and Noticing Agent and the rates charged for each, and to reimburse Claims and Noticing Agent for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for Claims and Noticing Agent to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses.

(7) The Claims and Noticing Agent shall maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices.

(8) The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Engagement Agreement or monthly invoices, and that the parties may seek resolution of the matter from the Court if resolution is not achieved.



(9) Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of Claims and Noticing Agent under this Order shall be an administrative expense of the Debtors' estates.

(10) The Claims and Noticing Agent may apply its retainer to all pre-petition invoices, which retainer shall be replenished to the original retainer amount, and thereafter, Claims and Noticing Agent may hold its retainer under the Engagement Agreement during the chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

(11) The Debtors shall indemnify Claims and Noticing Agent under the terms of the Engagement Agreement.

(12) All requests by Claims and Noticing Agent for the payment of indemnification as set forth in the [Application and/or Engagement Letter] shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the [Application and/or Engagement Letter] and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought, provided however, that in no event shall Claims and Noticing Agent be indemnified in the case of its own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct.

(13) In the event that Claims and Noticing Agent seeks reimbursement from the Debtor[s] for attorneys' fees and expenses in connection with the payment of an indemnity claim pursuant to the [Application and/or Engagement Letter], the invoices and supporting time records for the attorneys' fees and expenses shall be included in Claims and Noticing Agent's own applications, both interim and final, but determined by this Court after notice and a hearing.

(14) In the event Claims and Noticing Agent is unable to provide the services set out in this order, Claims and Noticing Agent will immediately notify the Clerk and Debtors' attorney and cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and Debtors' attorney.

(15) The Debtors may submit a separate retention application, pursuant to 11 U.S.C. § 327 and/or any applicable law, for work that is to be performed by Claims and Noticing Agent but is not specifically authorized by this Order.

(16) The Debtors and Claims and Noticing Agent are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

(17) Notwithstanding any term in the Engagement Agreement to the contrary, the Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

(18) The Claims and Noticing Agent shall not cease providing claims processing services during the chapter 11 case(s) for any reason, including nonpayment, without an order of the Court.

(19) In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

Dated: \_\_\_\_\_, 20 \_\_

BY THE COURT:

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UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**NOTICE OF PROPOSED ORDER AUTHORIZING DEBTORS TO  
TERMINATE RETENTION OF CLAIMS AND NOTICING AGENT**

**PLEASE TAKE NOTICE** that upon the annexed application (the "Application"), Debtors and Debtors in Possession in the above-captioned chapter 11 cases (collectively, the "Debtors"), will present an order substantially in the form annexed to the Application as Exhibit A, to the Honorable Judge \_\_\_\_\_ on \_\_\_\_\_, 20\_\_ at [*time*] at the United States Bankruptcy Court for the Western District of Pennsylvania, 5414 U.S. Steel Tower, 600 Grant Street, Pittsburgh, PA 15219, authorizing the Debtors to terminate the retention of [*name of claims and noticing agent*], the claims and noticing agent for these chapter 11 cases.

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief sought herein shall be made in writing, state with particularity the grounds therefor, filed with the Court (with courtesy copy to chambers) and served upon counsel to the Debtors at the address set forth below, and [*name and address counsel for the Creditors' Committee*], counsel for the Creditors' Committee, in a manner calculated to be received no later than time, day, date. Unless objections are received by that time, the order may be entered.

Dated: \_\_\_\_\_

[*Name of Firm*]

By:

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

<i>Debtor(s)</i>	:	Case No. _____
	:	Chapter 11
<i>Movant(s)</i>	:	
	:	
v.	:	
	:	
<i>Respondent(s)</i>	:	
(If none then "No Respondent")	:	

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**ORDER TERMINATING SERVICES OF CLAIMS AND NOTICING AGENT**

The above-referenced Debtor (the "Debtor") having filed a petition for relief under chapter 11 with this Court on [date]; the Debtor having obtained an Order of Retention on [date] to retain [Name of the Claims and Noticing Agent] to act as the claims and noticing agent by assuming full responsibility for noticing, processing of claims, preparation and maintenance of a claims register and providing custody of all proofs of claim; the Plan having been confirmed on [date], by order of this Court; the last date to file claims having occurred on [date]; the Debtor, in consultation with the Clerk of Court, having determined that the requirement for a claims and noticing agent no longer exists in these chapter 11 cases

**AND NOW** this \_\_\_\_ *day of* \_\_\_\_ **20**\_\_\_\_, it is hereby **ORDERED, ADJUDGED,** and **DECREED** that:

(1) The services of [name of the claims and noticing agent] are terminated effective thirty days from the entry of this Order;

(2) [name of the claims and noticing agent] will prepare final claims registers for the Clerk's Office pursuant to any current guidelines for implementing 28 U.S.C. § 156(c);

(3) [name of the claims and noticing agent] will box and transport all claims to the Federal Archives, at the direction of the Clerk's Office; and

(4) The above services to be rendered by [name of the claims and noticing agent] shall be a charge to the estate.

DATED: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

Interim Compensation

***Attachment “C”***

Although interim compensation is of great interest to counsel, the Court does not believe it is necessary to have form motions and orders as part of the Local Rules for complex Chapter 11 cases. Rather, the Court will be receptive to motions seeking approval of interim compensation procedures as appropriate on a case by case basis. The Court's experience is that many large firms have their own preferred form motion to request interim compensation, and that it is better to allow some flexibility in that regard than to mandate the use of a particular form of motion or order in our Court.

## Case Management Order

***Attachment “D”***



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:	)	
	)	Chapter 11
[DEBTOR NAME]	)	
	)	Case No.
	)	
Debtor(s).	)	
	)	

**ORDER ESTABLISHING CERTAIN NOTICE,  
CASE MANAGEMENT, AND ADMINISTRATIVE  
PROCEDURES AS WELL AS GRANTING RELATED RELIEF**

On [DATE] (“*Petition Date*”), the above-captioned Debtor(s) and Debtor(s) in possession (collectively, the “*Debtor(s)*”), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (“*Bankruptcy Code*”) in the United States Bankruptcy Court for the Western District of Pennsylvania. The Debtor(s) (is/are) operating (its/their) business(es) and managing their properties as Debtor(s) in Possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Upon the motion (“*Motion*”) of the above-captioned Debtor(s) and Debtor(s) in Possession (collectively, the “*Debtor(s)*”) for the entry of an order (“*Order*”) approving and implementing the following case management procedures ( “*Case Management Procedures*”); and upon the first day declaration filed in the above-captioned matter; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that this Court may enter a final order on the Motion consistent with Article III of the United States Constitution; and this Court having found that venue of these cases and the Motion in this district is proper pursuant to

28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtor(s) provided appropriate notice of the Motion and the opportunity for a hearing under the circumstances; and in accordance with Standing Order dated \_\_\_\_ or W.PA.LBR [\_\_\_\_]; and this Court having found that the relief granted herein is in the best interests of the Debtor(s)'(s) estate(s), [its/their] creditors, and other parties in interest and that the legal and factual bases set forth in the Motion; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing,

**AND NOW** this \_\_\_\_ *day of* \_\_\_\_ 20 \_\_, it is hereby **ORDERED, ADJUDGED,** and **DECREED** that:

- (1) The Motion is **GRANTED** as set forth herein.
- (2) The following Case Management Procedures are **APPROVED** and shall govern all applicable aspects of this/these chapter 11 case(s), except as otherwise ordered by this Court. **Notwithstanding the entry of this Order, all parties in interest must comply with the Chambers Procedures set forth on the Court's website.**
- (3) The Debtor(s)'(s) proposed notice and claims agent, [CLAIMS AGENT], is authorized to establish the case website, available at [WEBSITE], where, among other things, electronic copies of all Court Filings (as defined in the Case Management Procedures) will be posted and viewable free of charge.
- (4) The Debtor(s) (is/are) authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
- (5) This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

## **CASE MANAGEMENT PROCEDURES**

### ***Hearing Procedures***

(6) **All Matters To Be Heard at Omnibus Hearings.** The Court shall schedule periodic omnibus hearings (the “***Omnibus Hearings***”) to consider all notices, motions, applications, and other requests for relief, briefs, memoranda, affidavits, declarations, replies, and other documents filed in support of such papers seeking relief (collectively, the “***Requests for Relief***”), and all objections and responses to such Requests for Relief (collectively, the “Objections,” and together with the Requests for Relief and all other filed documents, the “***Court Filings***”) pursuant to the following procedures:

(7) **Initial Omnibus Hearings.** The first four Omnibus Hearings are scheduled as follows:

- [DATE/TIME];
- [DATE/TIME];
- [DATE/TIME]; and
- [DATE/TIME].

(8) **Subsequent Omnibus Hearings.** At or before the Omnibus Hearing held on [DATE] the Debtor(s) shall request that the Court schedule additional Omnibus Hearings. The Court shall schedule such Omnibus Hearings and, upon scheduling, [CLAIMS AGENT] shall post the dates of the additional Omnibus Hearings on the Case Website. Parties may contact [CLAIMS AGENT] for information concerning all scheduled Omnibus Hearings.

(9) **Claims Agent Contact Information.** Parties can contact [CLAIMS AGENT] at [CLAIMS AGENT CONTACT INFORMATION] for all matters related to these Case Management Procedures.

(10) **Preliminary Omnibus Hearing Agenda and Hearing Binder.** At least 7 days prior to each scheduled hearing date, counsel for the Debtor(s) shall prepare and hand deliver a draft agenda (the “***Preliminary Agenda***”) and a draft hearing binder (the “***Preliminary Hearing Binder***”) to Chambers. The Preliminary Agenda and the Preliminary Hearing Binder shall be subject to amendment throughout and including the Final Agenda Deadline (as defined below).

(11) **Final Omnibus Hearing Agenda and Binder.** On or before 3:00 p.m. (prevailing Eastern time) two business days before each Omnibus Hearing (the “***Final Agenda Deadline***”) the Debtor(s)’(s) counsel shall file a final agenda with regard to the matters scheduled to be heard at such Omnibus Hearing (the “***Final Hearing Agenda***”). The Final Hearing Agenda may include notice of matters that have been consensually adjourned to a later Omnibus Hearing in lieu of parties filing a separate notice of adjournment; provided that for all matters adjourned to a later Omnibus Hearing or some other future date, the Debtor(s) also will electronically file (but need not serve) a notice of adjournment with respect to such matters. Contemporaneous with its electronic filing, the Debtor(s) shall hand deliver to Chambers a hard copy of the Final Hearing Agenda, together with copies of those documents that were not included in the Preliminary Hearing Binder (appropriately tabbed and marked to indicate the agenda item to which each document refers (the “***Final Hearing Binder***”).

(12) **Content of Proposed Hearing Agenda.** The Final Hearing Agenda will include, to the extent known by Debtor(s)’(s) counsel: (a) the docket number and title of each matter scheduled to be heard at such Omnibus Hearing, including the initial filing and any

objections, replies, or documents related thereto; (b) whether the matters are contested or uncontested; (c) whether the matters have settled or are proposed to be continued; (d) a suggestion for the order in which the matters should be addressed; and (e) any other comments that will assist the Court.

(13) **Content of the Hearing Binders.** The Preliminary Hearing Binder and the Final Hearing Binder (together, the “**Binders**”) shall include all substantive documents relevant to each agenda item scheduled to be heard at the Omnibus Hearing. The first document in the Binder shall be the agenda. If a matter is listed in the agenda, the corresponding documents must be included in the Binder in separately-tabbed sections that track the order of the respective agenda. The Binders shall not include any: (i) Notice of Hearing; (ii) certificates of service (unless adequacy of service is an issue to be addressed by the Court); or (iii) any pleadings which relate to matters which are continued or adjourned by consent of the parties, withdrawn, or otherwise not scheduled to be heard at the Omnibus Hearing. Binders shall have a ring diameter of no greater than three (3) inches and must be loosely filled with 8.5 x 11 paper sheets. An additional binder shall be used whenever the volume of documents in a Binder exceeds 450 sheets for a 3” round-ring binder or 600 sheets for a 3” D-ring binder. Oversized sheets should be reduced to 8.5 x 11 provided that the clarity of the document is not affected. Aside from the agendas and proposed orders, all pages should be double-sided. The cover and spine of each Binder shall include the following information: (1) title of the Binder; (2) the case name and number; (3) the hearing date and time; and (4) the applicable number sequence if more than one Binder is produced. All proposed orders within the Binders shall be conspicuously tabbed in a manner that distinguishes the location of the orders within each section of the agenda. Each proposed order shall be one-side, paginated, and shall not contain the CM/ECF header. The caption of the proposed order shall also include a reference to the corresponding agenda number to which it pertains.

(14) **Bridge Orders Not Required in Certain Circumstances.** When a motion to extend time to take any action is filed before the expiration of the period prescribed by the United States Bankruptcy Code (“***Bankruptcy Code***”), Federal Rules of Bankruptcy Procedure (“***Bankruptcy Rules***”), Local Bankruptcy Rules of this Court (“***Local Bankruptcy Rules***”), or order of the Court, the time shall be automatically extended until the Court acts on the motion, as long as the movant files the motion with a return date that is no later than 17 days after the filing of such motion.

(15) **Evidentiary Hearings.** With respect to any Court Filing, if Objections are filed, the Omnibus Hearing shall not be deemed an evidentiary hearing at which witnesses may testify, unless the Proposed Hearing Agenda provides otherwise after consultation with the Court’s Courtroom Deputy. Additionally, any Court Filing requesting or requiring the Court to make a factual finding must be supported by competent evidence (*e.g.*, declarations, affidavits, and exhibits).

(16) **Telephonic Appearances.** Attorneys who have entered an appearance in the case may participate telephonically at non-evidentiary hearings. Counsel for any party desiring to participate in a hearing telephonically must request permission from chambers at least two business days before the applicable hearing. Unless the Court orders otherwise, once a party obtains authorization from the Court to participate telephonically on a particular agenda item, it need not obtain additional authorization to appear telephonically in any continued hearing involving the same agenda item. If chambers permits telephonic participation, the party participating telephonically must arrange such participation with CourtCall (or similarly authorized vendor), adhering to the procedures for telephonic participation applicable in the Court. Those parties participating by phone may not record or broadcast (including using speakerphones)

the proceedings conducted by the Court. Unless the Court orders otherwise, telephonic participation will not be available (in any form) to non-attorneys, including *pro se* parties, members of the public, members of the press, and attorneys who have not entered an appearance in the case. Individuals who are ineligible for telephonic participation are reminded that all hearings remain open to members of the public who may attend in person in the courtroom.

(17) **Listen-Only Lines.** Unless the Court orders otherwise, only attorneys who have entered an appearance in the case may attend hearings through a listen-only line by making arrangements with CourtCall (or similarly authorized vendor) in advance. Any counsel who has entered an appearance wishing to use a listen-only line need not seek permission from the Debtor(s) or the Court.

(18) **Matters that May Be Heard at Non-Omnibus Hearings.** Subject to consultation with the Court's chambers, hearings in connection with applications for professional compensation and reimbursement, pre-trial conferences, asset sales and trials related to adversary proceedings, approval of a disclosure statement, confirmation of a plan, and any other Court Filing filed by the Debtor(s) and not heard may be scheduled for dates other than the Omnibus Hearing dates; provided that nonemergency hearings in connection therewith may be scheduled on a non-Omnibus Hearing date; provided that initial pre-trial conferences scheduled in connection with adversary proceedings involving the Debtor(s) shall be set on the next available Omnibus Hearing date that is at least 45 days after the filing of the complaint; and provided further, that hearings on all other Requests for Relief, except for those Requests for Relief specifically referenced in this paragraph or requiring emergency relief, filed by any party must be scheduled for an Omnibus Hearing.

### ***Filing and Service Procedures***

(19) **Court Filings.** All Court Filings filed in these chapter 11 cases shall be filed electronically with the Court on the docket of [CASE INFORMATION], by registered users of the Court's electronic case filing system (the "***Electronic Filing System***") in searchable portable document format ("***PDF***"), Microsoft Word, or any other Windows-based word processing format.

### ***The Service List***

(20) **Parties Entitled to Service.** All Court Filings (other than proofs of claim) shall be served on the following list of parties (the "***Service List***"), according to the following notice procedures.

- (a) ***Master Service List.*** [CLAIMS AGENT] shall maintain a master service list (the "***Master Service List***"). The Master Service List shall be made available by (i) accessing the Case Website, (ii) contacting [CLAIMS AGENT] directly, or (iii) contacting the Debtor(s)'(s) counsel directly. The Master Service List shall include the following parties:
  - (i) the United States Trustee for Region 3;
  - (ii) the Debtor(s) and their counsel;
  - (iii) the official committee of unsecured creditors appointed in these chapter 11 cases (the "***Committee***") and its counsel;
  - (iv) [INSERT ANY ADDITIONAL NOTICE PARTIES];
  - (v) any other federal, state, or local governmental agencies to the extent required by the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or order of the Court; and
  - (vi) the Internal Revenue Service.



- (b) **2002 List.** [CLAIMS AGENT] shall maintain a list of all parties that have filed a request to receive service of Court Filings pursuant to Bankruptcy Rule 2002 (the “2002 List”).
- (i) ***Filing Requests for Documents Requires Email Address.*** A request for service of Court Filings pursuant to Bankruptcy Rule 2002 (each, a “**2002 Notice Request**”) filed with the Court shall be deemed proper only if it includes the following information with respect to the party filing such request: (A) name; (B) street address; (C) name of client(s), if applicable; (D) telephone number; (E) facsimile number; and (F) email address.
- (ii) ***Certification Opting Out of Email Service.*** Any party filing a 2002 Notice Request who does not maintain (and cannot practicably obtain) an email address and thereafter cannot receive service by email must include in the 2002 Notice Request a certification to that effect (each, a “**Certification**”). A Certification shall include a statement certifying that the party (A) does not maintain an email address and (B) cannot practicably obtain an email address at which the party could receive service. Such party will thereafter receive paper service in accordance with the Case Management Procedures.
- (iii) ***Email Address Required.*** If a 2002 Notice Request fails to include an email address or a Certification, the Debtor(s) shall forward a copy of the Case Management Procedures to such party within five business days requesting an email address. If no email address or Certification is provided in response to such request, such party shall not be added to the 2002 List or served with copies of Court Filings unless such party is an Affected Entity (defined below).
- (iv) ***Changes in Information.*** Each party submitting a 2002 Notice Request is responsible for filing with the Court an updated 2002 Notice Request as necessary to reflect changes to any notice information and must serve a copy of such updated 2002 Notice Request upon the Debtor(s).

- (c) ***Affected Entities.*** All entities with a particularized interest in the subject matter of a specific Court Filing, including the entity filing the Request for Relief, is an “***Affected Entity***” and entitled to be served with all Court Filings relating to that interest.

(21) **Maintenance of the Service List.** At least every 15 days during the first 60 days of these chapter 11 cases, and at least every 30 days thereafter, [CLAIMS AGENT] shall update the Service List by making any additions and deletions and post the updated Service List on the Case Website.

### ***Filing and Service of Court Filings Generally***

(22) **Electronic Filing and Service.** All Court Filings shall be filed electronically with the Court, using the Court’s Electronic Filing System and served via email, other than service of a summons and complaint in an adversary proceeding or documents filed under seal, which shall be deemed to constitute proper service for all parties who are sent such email service; provided however, Court Filings may be served on the Master Service List by email and by first class mail. Subject to the limited exclusions, each party that files a notice of appearance and a 2002 Notice Request shall be deemed to have consented to electronic service of all Court Filings, except as provided herein.

- (a) ***Email Subject Line.*** With respect to the service of any Court Filing, the subject line of the email shall include (i) the Debtor(s)’(s) case name and number [CASE INFORMATION], (ii) the name of the party filing such Court Filing, and (iii) the title of the Court Filing being served. If the title of the Court Filing is too long to fit within the subject line of the email, the subject line shall contain a shortened version of such title, and the text of the email shall contain the full title of such Court Filing.
- (b) ***Email Attachments.*** All Court Filings served by email shall include the entire document, including any proposed form(s)

of order and exhibits, attachments, or other materials, in PDF, readable by Adobe Acrobat or other equivalent document reader programs commonly available without cost. The relevant Court Filing shall either be attached to the email in a format specified above or the email shall contain a link to such filing in such format. Notwithstanding the foregoing, if a Court Filing cannot be attached to an email (because of its size, technical difficulties, or other concerns), the filing party may serve the Court Filing by U.S. mail, including the proposed form(s) of order and any exhibits, attachments, and other relevant materials; provided that the Court Filing is served by hand or overnight delivery on the Service List.

(23) **Paper Service of Certain Affected Entities.** To the extent an Affected Entity's email address is not available, the Debtor(s) (or any other party filing a Court Filing) shall serve such Affected Entity with paper copies by first class mail or private mail service.

(24) **Form of Papers.** Unless granted prior permission, motions, applications, and objections are limited to 50 pages and replies and statements are limited to 15 pages. All Court Filings (other than exhibits) shall be double-spaced, 12-point font, with one-inch margins.

(25) **Certificates of Service.** Certificates of service for all Court Filings, including the Service List, need only be filed with the Court.

(26) **Right to Request Special Notice Procedures.** Nothing in the Case Management Procedures shall prejudice the right of any party to seek an amendment or waiver of the provisions of the Case Management Procedures upon a showing of good cause including, without limitation, the right to file a motion seeking emergency ex parte relief or relief upon shortened notice.

(27) **Section 342 Notice Requirements.** Any notice sent by the Debtor(s) or any other party in interest shall be deemed to comply with the requirements set forth in section 342(c)(1) of the Bankruptcy Code.

***Filing and Service of Requests for Relief***

(28) **Requests for Relief to Be Heard at Omnibus Hearing.** In accordance with Local Bankruptcy Rule 9014-1, in the event that a party files and serves a Request for Relief at least 25 days before the next Omnibus Hearing, the matter shall be set for hearing at such Omnibus Hearing. If a Request for Relief is filed by a party other than the Debtor(s) and purports to set a hearing date inconsistent with the Case Management Procedures, the Request for Relief shall be heard, without the necessity of a Court order, at the first Omnibus Hearing after the applicable notice period has expired.

(29) **Expedited/Emergency Scheduling Procedures.** If a movant or applicant determines that a Request for Relief requires expedited or emergency relief, the movant or applicant shall contact attorneys for (a) the Debtor(s); (b) the Committee; (c) [ADDITIONAL NOTICE PARTIES]; (d) the Office of the United States Trustee; and (e) each Affected Entity, by telephone and request that the Request for Relief be considered on an expedited basis. If the Debtor(s), the Committee or the Affected Party (if the Debtor(s) or the Committee seek expedited/emergency relief) disagree with the movant's or applicant's request for expedited or emergency relief, the movant or applicant shall (a) inform the Court of the disagreement by telephone and (b) arrange for a chambers conference, telephonic or in-person, to discuss the disagreement. If the Court agrees with the movant or applicant regarding the necessity for

expedited consideration, the movant or applicant may, by order to show cause, request an expedited hearing.

(30) **Notices of Requests for Relief.** A notice shall be affixed to the front of each Request for Relief and shall set forth (a) the title of the Request for Relief, (b) the time and date of the objection deadline, (c) the parties on whom any objection is to be served, and (d) the Omnibus Hearing date at which the party intends to present the Request for Relief. The notice may also include a statement that the relief requested therein may be granted without a hearing if no objection is timely filed and served in accordance with the Case Management Procedures (a “**Presentment Notice**”). Subject to Section (E) of these Case Management of Procedures, if the notice filed with a Request for Relief includes a Presentment Notice, after the objection deadline has passed and if no objection has been filed and served in accordance with these Case Management Procedures, counsel to the party who filed the Request for Relief may file a certification that no objection has been filed or served on them, and may request that the Court grant the relief and enter an order without a hearing.

(31) **Certification of Counsel.** To the extent the parties resolve a Request for Relief through the terms of a consent order, the proposed order shall be submitted to the Court through a certification of counsel (“**COC**”). The COC shall be served on all Affected Entities. The parties shall also attach a redline comparison to the COC in the event that the proposed order materially differs from the order attached to the Request for Relief.

(32) **Service of Requests for Relief.** For any Court Filing for which particular notice is required to be served on all creditors and parties with a particular interest in the relief sought by any Request for Relief, including Bankruptcy Rules 2002(a)(2) and (3), 4001, 6004,

6006, 6007, and 9019, parties shall serve all such Court Filings only on the Service List in accordance with the following, unless otherwise ordered by the Court:

- (a) in the case of any use, sale, lease, or abandonment of substantially all of the Debtor(s)'(s) property, on each party asserting an interest in that property;
- (b) in the case of any relief from or modification of the automatic stay, on each party asserting a lien or other encumbrance on the affected property;
- (c) in the case of the use of cash collateral or obtaining of credit, on each party asserting an interest in the cash collateral or a lien or other interest in property upon which a lien or encumbrance is proposed to be granted;
- (d) in the case of a motion under Bankruptcy Rule 9019, on all parties to the relevant compromise and settlement, or that may be directly affected by such compromise or settlement;
- (e) in the case of assumption, assignment, or rejection of an executory contract or an unexpired lease, on each party to the executory contract or the unexpired lease;
- (f) any objection, opposition, response, reply, or further document filed directly in response to another party's Court Filing, on such other party; and
- (g) on all parties as required by the Bankruptcy Rules, unless otherwise directed by the Court.

(33) **Notice Provisions Not Applicable to Certain Matters.** Except as set forth in the Case Management Procedures or otherwise provided by order of the Court, the notice provisions of the Case Management Procedures shall not apply to notices of the matters or proceedings described in the following Bankruptcy Rules:

- (a) Bankruptcy Rule 2002(a)(1) (meeting of creditors pursuant to section 341 of the Bankruptcy Code);
- (b) Bankruptcy Rule 2002(a)(2) (any proposed use, sale, or lease of property of the estate other than in the ordinary course of

business, to the extent that such use, sale, or lease concerns all or substantially all of the Debtor(s)'(s) assets);

- (c) Bankruptcy Rule 2002(a)(4) (hearing on the dismissal of a case or cases or the conversion of a case to another chapter);
- (d) Bankruptcy Rule 2002(a)(5) (time fixed to accept or reject a proposed modification of a chapter 11 plan);
- (e) Bankruptcy Rule 2002(a)(7) (time fixed for filing a proof of claim pursuant to Bankruptcy Rule 3003(c));
- (f) Bankruptcy Rule 2002(b)(1) (time fixed for filing objections to and any hearing to consider approval of a disclosure statement);
- (g) Bankruptcy Rule 2002(b)(2) (time fixed for filing objections to and any hearing to consider confirmation of a chapter 11 plan);
- (h) Bankruptcy Rule 2002(d) (certain matters for which notice is to be provided to equity security holders);
- (i) Bankruptcy Rule 2002(f)(1) (entry of an order for relief);
- (j) Bankruptcy Rule 2002(f)(2) (dismissal or conversion of a case to another chapter of the Bankruptcy Code);
- (k) Bankruptcy Rule 2002(f)(3) (time allowed for filing claims pursuant to Bankruptcy Rule 3002);
- (l) Bankruptcy Rule 2002(f)(6) (waiver, denial, or revocation of a discharge as provided in Bankruptcy Rule 4006);
- (m) Bankruptcy Rule 2002(f)(7) (entry of an order confirming a chapter 11 plan); and
- (n) Bankruptcy Rule 2002(f)(8) (summary of the trustee's final report and account should a case be converted to chapter 7 of the Bankruptcy Code).

(34) **Requests for Relief to Include Proposed Order.** Parties submitting written motions or other Requests for Relief shall be required to include a proposed order with such Request for Relief.

### ***Filing and Service of Objections and Replies***

(35) **Deadline for Objections.** Any Objection to a Request for Relief must be filed with the Court and served upon the party filing the Request for Relief and those parties on the Service List by the following deadlines (each, as applicable, the “***Objection Deadline***”):

- (a) in the case of a Request for Relief filed 25 or more days before the applicable hearing, 4:00 p.m. (prevailing Eastern Time), seven calendar days before the applicable hearing; or
- (b) in any case, as otherwise ordered by the Court.

(36) **Extension of Objection Deadline.** The Objection Deadline may be extended without order of the Court upon the consent of the party filing the Request for Relief, which consent may be granted via email, provided however, no extensions will be allowed upon consent beyond the binder filing deadline.

(37) **Effect of Failure to File Objection by Objection Deadline.** Failure to file an Objection by the Objection Deadline may cause the Court to disregard the Objection.

(38) **Service of Objections.** All Objections shall be filed with the Court and served by the applicable Objection Deadline upon the party filing the Request for Relief and those parties on the Service List including each Affected Entity; provided that if the Objection Deadline is after the date that is seven days before the applicable hearing, then Objections shall also be served by email, facsimile, hand delivery, or overnight mail upon the following parties: (a) the Debtor(s); (b) [ADDITIONAL NOTICE PARTIES]; (c) the Committee, if applicable, and their counsel; and (d) each Affected Entity.

(39) **Service of Replies to Objections.** If a Court Filing is a reply to an Objection, and otherwise allowed by the Judge’s procedures, such reply shall be filed with the Court and



served so as to actually be received by: (a) the Debtor(s); (b) [ADDITIONAL NOTICE PARTIES]; (c) the Committee, if applicable, and their counsel; and (d) each Affected Entity, by 4:00 p.m. (prevailing Eastern Time) two business days preceding the applicable hearing date. Sur-replies shall be not permitted or considered unless authorized by the Court.

(40) **Settlements.** In the event that a matter is properly noticed for hearing and the parties reach a settlement of the dispute prior to the scheduled hearing, the parties shall so inform the Court's chambers as promptly as practicable and may announce the settlement at the scheduled hearing. In the event that the Court determines that the notice of the dispute and the hearing is adequate notice of the effects of the settlement (i.e., that the terms of the settlement are not materially different from what parties in interest could have expected if the dispute were fully litigated), the Court may approve the settlement at the hearing without further notice of the terms of the settlement.

(41) **Supplemental Notice.** In the event that the Court determines that additional or supplemental notice is required, the Debtor(s) shall serve such notice in accordance with the Case Management Procedures, and a hearing to consider such settlement shall be held on the next hearing date deemed appropriate by the Court.

### ***Granting a Request for Relief Without a Hearing***

(42) **Certificate of No Objection.** If no Objection to a Request for Relief is filed after the Request for Relief is filed and served in a timely fashion, the movant may file a proposed order granting the Request for Relief along with the relevant pleadings, an affidavit of service, and a certificate of no objection (a "***Certificate of No Objection***") stating that no Objection has been

filed or served on the movant. By filing and emailing such certification, counsel for the movant represents to the Court that the movant is unaware of any Objection to the Request for Relief and that counsel has reviewed the Court's docket and no Objection appears thereon.

(43) **Order May Be Entered Without Hearing.** Upon receipt of a Certificate of No Objection and other attachments as set forth in the preceding paragraph, the Court may enter an order granting the Request for Relief without further pleading, hearing, or request, and once an order granting such Request for Relief is entered, no further hearing on the Request for Relief shall be held.

(44) **Request for Relief May be Heard at a Hearing.** After a Certificate of No Objection has been filed, the Request for Relief may be heard at the next Omnibus Hearing if the Court does not enter an order granting the Request for Relief before such Omnibus Hearing.

#### ***Filing and Service of Orders***

(45) **Service of Orders.** All parties submitting orders shall serve a conformed copy of any entered order on (a) each Affected Entity, (b) the Debtor(s), and (c) [CLAIMS AGENT], within two business days of entry of the applicable order. [CLAIMS AGENT] shall post all orders on the Case Website.

#### ***Filing and Service of Adversary Proceedings***

(46) **Serving Adversary Proceedings.** All Court Filings in any adversary proceeding commenced in these chapter 11 cases shall be served upon each Affected Entity and

any other parties required to be served under any applicable Bankruptcy Rule or Local Bankruptcy Rule.

(47) **Discovery Rules in Contested Matters and Adversary Proceedings.**

Federal Rules of Civil Procedure 26(a)(1) (initial disclosures), 26(a)(2) (disclosures with respect to expert testimony), 26(a)(3) (additional pretrial disclosures), and 26(f) (mandatory meeting before scheduling conference/discovery plan) are inapplicable in contested matters but are applicable to adversary proceedings arising under these chapter 11 cases.

(48) **Briefing Schedule in Adversary Proceedings.**

After a hearing date has been set by the Court, unless otherwise ordered by the Court, the parties to the adversary proceeding shall confer and agree upon a briefing schedule for all adversary matters, which shall be submitted for approval of the Court.

***Other Pleadings***

(49) **Joinders.**

Any party seeking to support any Court Filing may file an expression of support of such Court Filing (a “***Joinder***”). Unless otherwise ordered by the Court, filing a Joinder does not entitle such party to: (a) be an independent proponent of the Court Filing; (b) independently support or oppose any related Court Filings; (c) independently settle the underlying Request for Relief that is the subject of the applicable Court Filing; or (d) independently receive a ruling from the Court on the Court Filing. The Court may deem a Joinder to be a brief in support of the applicable Court Filing, but the Court shall not consider any arguments or factual allegations contained in a Joinder but not in the related Court Filing, and no party shall be required to separately respond to a Joinder.

(50) **Request for Expedited/Emergency Hearings or Shortening of Time.**

Nothing herein (with the exception of paragraph \_\_\_ hereof to the extent that it applies to relief that is not properly sought on an ex parte basis) shall prejudice (a) the rights of any party-in-interest to move the Court to further limit or expand notice of such matters and proceedings upon a showing of good cause, including, but not limited to, the right to file a motion seeking expedited/emergency ex parte consideration or consideration upon shortened time, or (b) the rights of any party to seek an enlargement or reduction of a time period under Bankruptcy Rule 9006(b) or 9006(c).

(51) **Motion Practice for Lift Stay Actions.** A motion filed by a non-Debtor party seeking relief from the automatic stay (a “*Stay Relief Motion*”) in accordance with section 362 of the Bankruptcy Code shall be noticed for consideration on the Omnibus Hearing date that is at least 21 days after the Stay Relief Motion is filed and notice thereof is served upon the Debtor(s). Unless otherwise ordered by the Court, the objection deadline shall be the later of (a) 14 calendar days after the filing and service of the Stay Relief Motion or (b) three calendar days prior to the hearing scheduled with respect thereto.

(52) **Continuation of Automatic Stay.** Notwithstanding section 362(e) of the Bankruptcy Code, if a Stay Relief Motion is scheduled in accordance with the Case Management Procedures for, or adjourned to, a hearing date 30 days after the filing of the Stay Relief Motion, the moving party shall be deemed to have consented to the continuation of the automatic stay in effect pending the conclusion of, or as a result of, a final hearing and determination under section 362(d) of the Bankruptcy Code, and shall be deemed to have waived its right to assert the termination of the automatic stay under section 362(e) of the Bankruptcy Code.

(53) **Motions for Reargument.** Motions for reargument must identify with particularity the matter for reconsideration in accordance with Local Bankruptcy Rule 9023-1. If,

after review of the motion, the Court determines that it wishes a response, and/or hearing, it will notify the applicable parties accordingly.

(54) **Motions for Temporary Restraining Orders.** Parties seeking a temporary restraining order (a “**TRO**”) must comply with the requirements of Federal Rule of Civil Procedure 65(b). Applications for a TRO will be heard in open court, on the record, with a court reporter or audio recording. Parties wishing to oppose a TRO may be heard by telephone (Court Call) upon request. Applicants seeking TROs are reminded of the need to submit with their motion papers the written affidavit required under Federal Rule of Civil Procedure 65(b) confirming the notice provided to anyone who might wish to oppose the application. Any assertions that notice cannot or should not be given must likewise be supported by affidavit. Any request for a TRO must be preceded by a telephone call to chambers, advising chambers of the nature of the controversy, the need for emergency relief, why a noticed hearing for a preliminary injunction would be insufficient, when a hearing on the TRO application is needed, and when the motion papers will be forthcoming. Except in those rare cases where advance notice of the TRO application would vitiate the purpose of a TRO (and where that can be established by affidavit), immediate telephonic notice of the application must be provided to all parties reasonably expected to be affected by entry of the TRO, or provisions therein. In addition, the motion papers on any TRO application must be hand delivered, emailed, or faxed to any such parties at the same time that the papers are provided to chambers.

#### ***Additional Case Management Procedures***

(55) **Adequate Notice.** Notice and service accomplished in accordance with the provisions set forth in the Case Management Procedures shall be deemed adequate in all respects pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules.

(56) **Computation of Time.** Unless otherwise specified, all time periods referenced in the Case Management Procedures shall be calculated in accordance with Bankruptcy Rule 9006(a).

(57) **Effect of the Case Management Procedures.** The Bankruptcy Rules and the Local Bankruptcy Rules shall continue to apply to all proceedings in these chapter 11 cases, except to the extent that any provision of the Case Management Procedures by its terms supersedes or is inconsistent with such rules.

(58) **Promulgation of the Case Management Procedures.** As soon as practicable after the entry of this Order, a copy of this Order shall be served by the Debtor(s) on each of the parties on the Master Service List. In addition, shortly after the end of each calendar month, [CLAIMS AGENT] or counsel to the Debtor(s) shall serve a copy of this Order upon any party filing a 2002 Notice Request within such calendar month. To help ensure that all parties who may participate in this/these chapter 11 case(s) are aware of the terms of this Order, the Debtor(s) will post this Order on the Case Website.

\_\_\_\_\_  
JUDGE \_\_\_\_\_  
UNITED STATES BANKRUPTCY COURT