

## Chapter 11 Guidelines

The following guidelines are provided to facilitate the drafting of orders establishing a claims bar date. These guidelines supplement the Federal and Local Rules of this District. In the event of conflict, the Federal Rules of Bankruptcy Procedure shall control.

### Suggested Standard Paragraphs for Orders Establishing a Claims Bar Date with Noticing Agent Only

**A. There shall be a Caption of the Order followed by a standard introductory paragraph.**

**B. First Paragraph after ORDERED THAT:**

1. The Motion is GRANTED in that:

**C. Definition of Terms**

1. As used herein, (a) the term “claim” has the meaning given to such term in section 101(5) of the Bankruptcy Code, (b) the term “entity” has the meaning given to such term in section 101(15) of the Bankruptcy Code, and (c) the term “governmental unit” has the meaning given to such term in section 101(27) of the Bankruptcy Code.

**D. Bar Date Notice Package**

1. The forms of the Bar Date Notice, the Proof of Claim Form, and the Publication Notice attached hereto as Exhibit A, Exhibit B, and Exhibit C respectively, and the manner of providing notice of the Bar Dates proposed in the Motion are approved pursuant to Bankruptcy Rules 2002(a)(7), 2002(l), and 2002(p). The form and manner of notice of the Bar Dates approved herein are (a) reasonable and adequate and (b) fulfill the notice requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules. As such, the Debtors are authorized to direct their claims and noticing agent [Name of noticing agent], to prepare and serve the Bar Date Notice Package and publish the Publication Notice as described below.

**E. General Bar Date**

1. [Date] at [Time] (prevailing Central Time) shall be the deadline (“General Bar Date”) for each person or entity, other than Governmental Units, to submit a

Proof of Claim against the appropriate Debtor in accordance with the procedures below based on claims that arose prior to the Petition Date.

2. Except as otherwise provided in this Order, the General Bar Date applies to all types of claims against the Debtors that arose or are otherwise deemed to have arisen prior to the Petition Date, including secured claims, unsecured priority claims, claims under section 503(b)(9) of the Bankruptcy Code, and unsecured nonpriority claims.

#### **F. Governmental Bar Date**

1. **[Date] at [Time] (prevailing Central Time)** shall be the deadline (“Governmental Bar Date”) for Governmental Units to submit a Proof of Claim against the appropriate Debtor in accordance with the procedures below based on claims that arose prior to the Petition Date.

#### **G. Entities subject to the General Bar Date**

1. Subject to terms described in this Order for holders of claims subject to the Governmental Bar Date, Rejection Bar Date, and the Amended Schedules Bar Date, the following entities must file a proof of claim on or before the General Bar Date:
  - a. any entity (i) whose prepetition claim against a Debtor is not listed in the applicable Debtor’s Schedules or is listed as contingent, disputed or unliquidated and (ii) that desires to participate in any of these chapter 11 cases or share in any distribution in any of these chapter 11 cases.
  - b. any entity that believes that its prepetition claim is improperly classified in the Schedules or is listed in an incorrect amount or against an incorrect Debtor, and that desires to have its claim allowed in a classification or amount or against a Debtor other than that identified in the Schedules.
2. Pursuant to Bankruptcy Code sections 105(a) and 503(a) and Bankruptcy Rule 3003(c)(2), and except as other provided in this Bar Date Order, any entity that is required to file a proof of claim in these cases pursuant to the Bankruptcy Code, the Bankruptcy Rules or this Order with respect to a particular claim against a Debtor, but fails to properly do so by the applicable Bar Date, shall be estopped and enjoined from: (a) asserting any such claim against the Debtors or their estates, or against any reorganized Debtor or successor in interest following the effective date of a Chapter 11 plan of reorganization in these cases, or property that (i) is in an amount that exceeds the amount, if any, that is identified in the Schedules on behalf of such entity as undisputed, noncontingent, and liquidated, or (ii) is of a different nature or classification than any such claim identified in the

Schedules on behalf of such entity (any such claim under subparagraph (a) of this paragraph being referred to herein as an “Unscheduled Claim”); (b) voting on, or receiving distributions under, any chapter 11 plan in these chapter 11 cases in respect of an Unscheduled Claim; or (c) with respect to any administrative priority claim component of any Rejection Damages Claim, asserting any such priority claim against the Debtors or their estates or property.

## H. Procedures for Filing Proofs of Claim

1. The following procedures for the filing of proofs of claim shall apply:
  - a. Proofs of claim must be on the Proof of Claim Form attached hereto as **Exhibit B** or otherwise conform substantially to Official Form B 410.
  - b. Proofs of claim must be (a) filed through the CM/ECF system on the Court’s website at <https://ecf.moeb.uscourts.gov/cgi-bin/login.pl>; (b) filed electronically using the Electronic Proof of Claim (ePOC) Program on the Court’s website at <https://www.moeb.uscourts.gov/epoc-electronic-proof-claim-filing>; (c) sent by first-class mail or overnight courier to the Clerk of the Bankruptcy Court, Eastern District of Missouri, 111 S. 10th St., 4th Floor, St. Louis, MO 63102. **Proofs of claim may NOT be delivered by facsimile or electronic mail transmission;**
  - c. Proofs of claim will be deemed filed only when actually received by the Clerk of the Bankruptcy Court per the instructions set forth in the foregoing subparagraph on or before the applicable Bar Date. If a creditor wishes to receive acknowledgement of the Clerk of Court’s receipt of a proof of claim, the creditor also must submit to the Clerk of Court by the applicable Bar Date and concurrently with its original proof of claim (i) a copy of the original proof of claim and (ii) a self-addressed, postage prepaid return envelope.
  - d. Proofs of claim must (i) be signed by the claimant or, if the claimant is not an individual, by an authorized agent of the claimant, (ii) include any documents upon which the claim is based (or, if such documents are voluminous, a summary) or an explanation as to why the documents are not available, (iii) be written in the English language, and (iv) be denominated in United States currency;
  - e. All Claimants asserting a Claim against more than one Debtor must file a separate Proof of Claim with respect to each such Debtor and identify on each Proof of Claim the Debtor against which such Claim is asserted and the case number for that Debtor. If any Proof of Claim does not clearly

specify the name of the Debtor against which the claim is asserted (including listing multiple Debtors), that Proof of Claim shall be administered as though it was filed against [Debtor], unless a single different case number is clearly specified. Any claim filed under the joint administration case number ([Debtor], Case No. [Number]) or otherwise without identifying a Debtor by name or case number will be presumed to be filed only against Debtor [Debtor]. Notwithstanding the foregoing, the failure of any entity to file its Proof of Claim against the correct Debtor shall not constitute cause to expunge the Proof of Claim. Rather, the Debtors may seek to reclassify the Proof of Claim so that the claim is asserted against the proper Debtor on notice to the affected claimant.

### **I. Entities Not Required to File Proofs of Claim**

1. The following entities, whose claims otherwise would be subject to the General Bar Date, shall not be required to file proofs of claim in these chapter 11 cases:
  - a. any entity that already has filed a signed proof of claim against the applicable Debtor(s) with the Clerk of the Bankruptcy Court for the Eastern District of Missouri in a form substantially similar to Official Form B 410.
  - b. any entity whose claim is listed on the Schedules; *provided that* (i) the claim is not scheduled as “disputed,” “contingent,” or “unliquidated,” (ii) the claimant agrees with the amount, nature, and priority of the claim as set forth in the Schedules, and (iii) the claimant does not dispute that its claim is an obligation only of the specific Debtor against which the claim is listed in the Schedules;
  - c. any entity whose claim has previously been allowed by order of the Court
  - d. any entity whose claim has been paid in full by the Debtors pursuant to the Bankruptcy Code in accordance with an order of the Court;
  - e. any Debtor or non-Debtor subsidiary having a claim against another Debtor;
  - f. any entity whose claim is solely against any of the Debtors’ non-Debtor affiliates;
  - g. any current employee of the Debtors, if an order of this Court authorized the Debtors to honor such claim in the ordinary course of business for wages, commission, or benefits; provided, however, that a current employee must submit a proof of claim by the General Bar Date for all

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other claims arising before the Petition Date, including claims for wrongful termination, discrimination, harassment, hostile work environment, and/or retaliation;

- h. any holder of an equity interest in the Debtors need not file a proof of interest with respect to the ownership of such equity interest at this time; provided, however, that any holder of an equity interest who wishes to assert a claim against the Debtors, including a claim relating to such equity interest or the purchase or sale of such interest, must file a proof of claim asserting such claim on or prior to the General Bar Date pursuant to procedures set forth herein;
- i. any entity holding a claim for which a separate deadline is fixed by the Court;
- j. any individual holder of a claim for principal, interest, or applicable fees or charges on account of any note, bond, or debenture issued by the Debtors pursuant to an indenture or a credit agreement with respect to such claim;
- k. any holder of a claim allowable under Bankruptcy Code sections 503(b) and 507(a)(2) as an expense of administration incurred in the ordinary course; provided, however, that any entity asserting a claim entitled to priority under Bankruptcy Code section 503(b)(9) must assert such claims by filing a request for payment or a proof of claim on or prior to the General Bar Date;
- l. claims for fees and expenses of professionals retained in these proceedings; and
- m. any holder of a claim that was properly asserted and addressed in the Debtors' Prior Cases, but which has not yet received a distribution.

**J. Service of Notice**

1. The Debtors will publish the Bar Date Notice in accordance with Bankruptcy Rule 2002(l), modified for publication in substantially the form attached hereto as **Exhibit C** (the "Publication Notice"), on one occasion in *[National Newspaper]* and *[Local Newspaper]* at least twenty-one (21) days before the General Bar Date, which publication is hereby approved and deemed to constitute good, adequate, and sufficient publication notice, reasonably calculated, under the circumstances, to apprise interested parties of the pendency of the Bar Date Notice.

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2. Within [number] days after the entry of this Order (the “Service Deadline”), the Debtors, through [Name of noticing agent] or otherwise, shall serve the Bar Date Package, including a copy of the Bar Date Notice and the Proof of Claim Form substantially in the forms attached hereto as **Exhibit A** and **Exhibit C**, respectively, by first class mail, postage prepaid (or equivalent service), on:
  - a. all known potential claimants and their counsel (if known), including all entities listed in the Schedules as potentially holding claims;
  - b. the Office of the United States Trustee for the Eastern District of Missouri;
  - c. counsel to the Official Committee of Unsecured Creditors;
  - d. all parties that have requested notice in these chapter 11 cases;
  - e. all parties that have filed proofs of claim in these cases as of the date of the Bar Date Order;
  - f. all parties to executory contracts and unexpired leases with the Debtors that have been identified as of the date of the Bar Date Order, including all parties to rejected executory contracts and unexpired leases as of the date of the Bar Date Order.
  - g. all parties to pending litigation with the Debtors that have been identified as of the date of the Bar Date Order;
  - h. the Internal Revenue Service for this District and all other taxing authorities for the jurisdictions in which the Debtors conducted business as of the Petition Date;
  - i. all relevant state attorneys general;
  - j. the Securities and Exchange Commission;
  - k. all federal and state environmental protection agencies for the jurisdictions in which the Debtors held property or conducted business as of the Petition Date; and
  - l. such additional persons and entities as deemed appropriate by the Debtors or the Clerk of the Court.
3. As part of the Bar Date Package, the Debtors shall mail one or more Proof of Claim Forms (as appropriate) to the parties receiving the Bar Date Notice. For holders of potential claims listed in the Schedules, the Proof of Claim Form mailed to such entities shall indicate how the Debtors have scheduled the

creditor's claim in the Schedules, including (a) the identity of the Debtor against which the entity's claim is scheduled, (b) the amount of the scheduled claim, if any, (c) whether the scheduled claim is listed as disputed, contingent, or unliquidated, and (d) whether the scheduled claim is listed as a secured claim, an unsecured priority claim, or an unsecured nonpriority claim.

#### **K. Administrative Claims and Rejection Damages Claims**

1. The filing of a proof of claim form is deemed to satisfy the procedural requirements for the assertion of administrative priority claims under section 503(b)(9) of the Bankruptcy Code; *provided, however*, that all other administrative claims under section 503(b) of the Bankruptcy Code, other than Rejection Damages Claims (as defined below), must be made by separate requests for payment in accordance with section 503(a) of the Bankruptcy Code and will not be deemed proper if made by a proof of claim.
2. Any entity asserting claims arising from or relating to the rejection of executory contracts or unexpired leases pursuant to an order of this Court or by operation of section 365(d)(4) of the Bankruptcy Code in the applicable Debtor's chapter 11 case, or claims otherwise related to such rejected agreements, including (a) secured claims, unsecured priority claims, and unsecured nonpriority claims that arose or are deemed to have arisen prior to the Petition Date, and (b) administrative claims under section 503(b) of the Bankruptcy Code (collectively, "Rejection Damages Claims") are required to file proofs of claim by the later of: (i) the General Bar Date or Governmental Bar Date (as applicable), and (ii) 11:59 p.m., prevailing Central Time, on the date that is thirty (30) days following entry of the relevant order or deemed effective date of the rejection of such rejected contract or unexpired lease ("Rejection Bar Date"). For the avoidance of doubt, all prepetition and postpetition claims of any kind or nature relating to the rejection of executory contracts or unexpired leases must be filed by the Rejection Bar Date. Orders approving the rejection of executory contracts or unexpired leases entered after the date of entry of this Order shall include a description of the Rejection Bar Date in the text thereof.
3. Each entity asserting a Rejection Damages Claim that includes an administrative claim component must file as part of its proof of claim a detailed supporting statement describing the nature and basis of any portion of the Rejection Damages Claim asserting an administrative priority under section 503(b) of the Bankruptcy Code (the "Administrative Claim Supplement"). The filing of a proof of claim form with an attached Administrative Claim Supplement, if applicable, shall be deemed to satisfy the procedural requirements for the assertion of a Rejection Damages Claim (including any administrative claim included therein).

4. All administrative claims under section 503(b) of the Bankruptcy Code other than (a) claims under section 503(b)(9) of the Bankruptcy Code and (b) any portion of a Rejection Damages Claim asserting administrative priority, must be made by separate requests for payment filed with the Court in accordance with section 503(a) of the Bankruptcy Code and shall not be deemed proper if made by proof of claim.

#### **L. Disputes and Amendments**

1. The Debtors shall retain the right to: (a) dispute, or assert offsets or defenses against, any filed claim or any claim listed or reflected in the Schedules as to nature, amount, liability, priority, classification or otherwise; (b) subsequently designate any scheduled claim as disputed, contingent, or unliquidated; and (c) otherwise amend or supplement the Schedules.
2. If the Debtors amend or supplement their Schedules after the service of the Bar Date Package, the Debtors shall give notice of any such amendment or supplement to the holders of claims affected thereby, including notice of the Amended Schedules Bar Date to file proofs of claim in response to the amendment or supplement to the Schedules. In particular, if a Debtor amends or supplements its Schedules to: (a) reduce the undisputed, noncontingent and liquidated amount of a claim; (b) change the amount, nature, or classification of a claim against the Debtor in a manner adverse to the scheduled creditor; or (c) add a new claim to the Schedules with respect to a party that was not previously served with notice of the Bar Dates, the affected claimant is required to file a proof of claim or amend any previously filed proof of claim in respect of the new or amended scheduled claim in accordance with the procedures described herein by the later of: (i) the General Bar Date and (ii) 11:59 p.m., prevailing Central Time, on the date that is thirty (30) days from the date on which the Debtors mail notice of the amendment to the Schedules (the “Amended Schedules Bar Date”). Notwithstanding the foregoing, nothing contained herein preclude the Debtors from objecting to any claim, whether scheduled or filed, on any grounds.

#### **M. Right to Seek Further Bar Date Orders**

1. The entry of this Order is without prejudice to the rights of the Debtors to seek a further order of this Court fixing a date by which holders of claims or interests not subject to the Bar Dates established herein must file proofs of such claims or interests, or requests for payment of administrative claims, or be estopped and enjoined from doing so.

#### **N. Procedures and Compliance**

1. The requirements of Local Rules 3001 and 3003 are hereby deemed satisfied.



2. Notice of the Motion satisfies the requirements of Bankruptcy Rule 6004(a).
3. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

**O. Service of the Order**

1. No later than two (2) business days after the date of this Order, the Debtors shall serve a copy of the Order on the Notice Parties and shall file a certificate of service no later than twenty-four (24) hours after service.

**P. There shall be a judge's signature block to complete the Order.**