

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
TIDEWATER INC., et al., ) Case No. 17-11132-BLS  
)  
Debtor. )

Wilmington, Delaware  
May 19, 2017  
11:08 a.m.

TRANSCRIPT OF AN ELECTRONIC RECORDING  
BEFORE THE HONORABLE BRENDAN L. SHANNON  
UNITED STATES BANKRUPTCY JUDGE

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9 - - -

10 THE COURT: Please be seated.  
11 Good morning.

12 Mr. Schrock, good morning. Good  
13 to see you.

14 MR. SCHROCK: Good morning, Your  
15 Honor.

16 THE COURT: Welcome.

17 MR. SCHROCK: Thank you.

18 Your Honor, for the record, Ray  
19 Schrock of Weil, Gotshal & Manges, proposed  
20 counsel for the debtors. I'm here today with  
21 my partner, Alfredo Perez, as well as my  
22 colleagues Adriana Georgallas as well as Chris  
23 Lopez.

24 THE COURT: Welcome.

25 MR. SCHROCK: Also with me, of  
course, is our Delaware counsel,  
Mr. DeFranceschi.



1           Your Honor, it's a pleasure to be  
2 before you this morning on behalf of Tidewater  
3 Inc., the debtor, lead debtor in these cases,  
4 along with its more than 4,500 employees  
5 globally including nondebtors. We're here  
6 before you with prepackaged Chapter 11 cases.

7           These cases already enjoy the  
8 support of 100 percent of the unsecured notes  
9 and more than 60 percent of the debtors'  
10 unsecured bank claims.

11           As of the filing of these Chapter  
12 11 cases, the debtors had already received  
13 affirmative votes in excess of 70 percent of  
14 the only impaired claim class and all claims  
15 save one, at least to my knowledge, at least  
16 as of the filing of these cases, have voted in  
17 favor of the plan.

18           THE COURT: I've seen that.

19           MR. SCHROCK: Your Honor, here  
20 with me in the courtroom today are three  
21 representatives of the Tidewater management  
22 team. Mr. Jeff Platt, the chief executive  
23 officer of Tidewater.

24           THE COURT: Welcome, sir.

25           MR. SCHROCK: Mr. Quinn Fanning,



1 the company's chief financial officer and  
2 our --

3 THE COURT: He's our affiant  
4 today. Welcome, sir. Thank you.

5 MR. SCHROCK: As well as  
6 Mr. Bruce Lundstrom, the company's general  
7 counsel and executive vice president.

8 THE COURT: Welcome.

9 MR. SCHROCK: Also with me in the  
10 courtroom is Mr. Timothy Pohl, senior managing  
11 director of Lazard.

12 THE COURT: Mr. Pohl, good to see  
13 you again.

14 MR. SCHROCK: Also we have  
15 Richard Robbins of Alix Partners, who's the  
16 debtors' financial advisor.

17 THE COURT: Very good.

18 MR. SCHROCK: As an initial  
19 matter I would like to thank the Court and the  
20 Office of the United States Trustee for  
21 working with us, for making time available for  
22 the company on very short notice.

23 I am pleased to report, Judge,  
24 that I think as of just before the hearing I  
25 think we have a fully consensual set of



1 matters in front of you for today.

2 THE COURT: Okay. I did see an  
3 objection or a response filed by Regions  
4 Commercial, and we'll deal with that at the  
5 appropriate time. But I did see that that was  
6 filed. I assume you've had an opportunity to  
7 review that as well.

8 MR. SCHROCK: Absolutely, Your  
9 Honor. Yes, we have.

10 THE COURT: Okay.

11 MR. SCHROCK: We would also like  
12 to thank the supporters of our plan. We have  
13 representatives of the banks and senior  
14 unsecured noteholders at counsel table here  
15 with us, and we certainly really appreciate  
16 their cooperation in bringing these cases  
17 before the Court.

18 Your Honor, I would like to cover  
19 just a couple of points before we get into the  
20 first day pleadings.

21 THE COURT: Okay.

22 MR. SCHROCK: Just an overview of  
23 the business, a little bit about how we got  
24 here, and then cover just a broad overview of  
25 the terms of the prepackaged plan.



1           Your Honor, this is a very  
2 interesting business. The debtors are a  
3 leading provider of offshore service vessels  
4 to the global offshore energy industry through  
5 the operation of a diversified fleet. They  
6 own or charter 262 vessels and eight remotely  
7 operated vessels as of the petition date.

8           THE COURT: It's just a little  
9 over half the size of the United States Navy.

10          MR. SCHROCK: That's right.

11          THE COURT: Presumably not as  
12 heavily armed, although that might be a  
13 separate (inaudible).

14          MR. SCHROCK: Your Honor, the  
15 debtors truly are a global business. They  
16 conduct 90 percent of their business in terms  
17 of foreign operations and have operations in  
18 most of the world's significant offshore crude  
19 oil and natural gas exploration and production  
20 regions.

21           Your Honor, I brought with me  
22 today a thumb drive.

23          THE COURT: Oh, terrific.

24          MR. SCHROCK: A thumb drive with,  
25 I would say, among this company's storied





1 history that, as the folks as Tidewater know  
2 and many other people know, that Tidewater was  
3 the primary rescue ship involved in the  
4 Deepwater Horizon.

5 THE COURT: I am aware of that.

6 MR. SCHROCK: And all of the  
7 survivors, in fact, were hauled onto a  
8 Tidewater vessel out of the Bankstown -- the  
9 Bankston. Pardon me. But, Your Honor, I'll  
10 hand that up to you at the end of --

11 THE COURT: Okay.

12 MR. SCHROCK: -- end of the  
13 proceedings. But it's a great video, and it  
14 really tells you a lot about what this company  
15 is made of.

16 THE COURT: I'll look forward to  
17 it. Obviously, as with many of the folks in  
18 the professions in this room, over the past  
19 few years I've certainly had a lot of exposure  
20 to the oil and gas industry and also to the  
21 service industries.

22 And it is -- Mr. Schrock, you've  
23 been here before. I do find it interesting,  
24 you know, what each of the companies that's  
25 before me does. It's kind of a truism to say



1 that everything is much more complicated than  
2 it seems, but this stuff is really  
3 complicated. And everything in this industry  
4 is very, very big.

5 MR. SCHROCK: It really is.

6 THE COURT: So it has been -- you  
7 know, obviously we've had a chance to see it  
8 and get some understanding of the financial  
9 issues as well as the legal issues, but the  
10 underlying nature of the business is really  
11 fascinating.

12 MR. SCHROCK: It's a great  
13 business, Judge. I mean, they operate in the  
14 U.S., the Gulf of Mexico, the Mediterranean  
15 Sea, Brazil, Canada, India, Malaysia, Mexico,  
16 Norway, United Kingdom, Thailand, West Africa,  
17 you know, basically anywhere people are  
18 drilling for oil and natural gas and offshore.

19 They have a deepwater fleet  
20 that's divided into large platform supply  
21 vessels that have greater than 2,800 tons in  
22 deadweight capacity and larger 100-horsepower  
23 anchor handling towing capacity vessels, which  
24 generally have greater than 10,000 horsepower.

25 THE COURT: Yeah. I need to know



1 a little more about that. You can have a  
2 seat. One of these guys needs  
3 to (unintelligible).

4 Welcome, sir.

5 MR. FANNING: Thank you, Your  
6 Honor.

7 THE COURT: As I mentioned, I do  
8 appreciate you coming up. And a lot of this  
9 is to give me some context of the business  
10 that you do. Some of it directly relates to  
11 the relief that we're looking for, but a lot  
12 of it is just that I'm curious about what it  
13 is you do.

14 I think I would like to  
15 understand when you were talking about in your  
16 affidavit about the platform supply vessels,  
17 which are about the largest vessels that are  
18 in your system, what is it you're supplying  
19 when you're talking about offshore? This is  
20 not going to jackup rigs; this is going to  
21 deepwater rigs, right?

22 MR. FANNING: That is correct,  
23 Your Honor.

24 THE COURT: And I assume  
25 intuitively it's the sorts of things that are



1 support for the crews that are on the ships as  
2 well, right, so it's food and anything else?  
3 But it was massive dry and wet capacity as  
4 well for drilling mud?

5 MR. FANNING: Correct.

6 THE COURT: What is drilling mud?

7 MR. FANNING: Drilling mud --

8 THE COURT: I've heard the term  
9 before but --

10 MR. FANNING: Mr. Schrock  
11 mentioned the Deepwater Horizon incident.  
12 There was a movie that came out recently, Your  
13 Honor, by that name.

14 THE COURT: With Mark Wahlberg.

15 MR. FANNING: With Mark Wahlberg.  
16 In fact, he tried to explain drilling mud  
17 using a Coke can and a straw.

18 THE COURT: Okay.

19 MR. FANNING: And drilling mud  
20 essentially is a counterweight to the  
21 reservoir-based oil or gas, or to avoid a  
22 blowout or an explosion, some of our vessels,  
23 the deepwater platform supply vessels, our  
24 largest ones would be 4,000 or 5,000  
25 deadweight tons of cargo carrying capacity.



1 That would include both wet and dry cargo.

2 Wet cargo would be below decks,  
3 massive typically stainless steel tanks that  
4 would include a combination of water-based and  
5 synthetic mud.

6 THE COURT: Okay.

7 MR. FANNING: Some of our  
8 vessels, as an example, off of Angola serve as  
9 remote mud plants, so they would sit outside  
10 the 500-meter zone away from the working rig.  
11 And, as happened in the Deepwater Horizon, the  
12 rig with its drillship or semisubmersible rig  
13 would call in the vessel.

14 They would moor to the drilling  
15 rig and then transfer these fluids onto the  
16 drillship or semisubmersible, and they would  
17 use that as part of the drilling operation or  
18 to counterbalance the pressure associated with  
19 the oil and gas in the reservoir.

20 THE COURT: That must be a tricky  
21 exercise because the drilling ships  
22 themselves -- I had a case just a year or so  
23 ago with Vantage where they explained the  
24 drilling ships and the technology associated  
25 with that and the azimuth thruster engines



1 that are all around, and it's held within  
2 18 inches of its location, notwithstanding the  
3 tides or anything else. But then to moor to a  
4 ship that's in that position has got to be an  
5 undertaking.

6 MR. FANNING: Well, they could  
7 moor, and they would also maintain relative  
8 positioning. You had mentioned the United  
9 States Navy. Compliments of the Navy we have  
10 the global positioning system --

11 THE COURT: Sure.

12 MR. FANNING: -- which is a  
13 satellite-based positioning system. We call  
14 it dynamic positioning. Essentially the  
15 vessel is maintaining a relative position of  
16 the rig as it transfers product back and  
17 forth.

18 You can think of a platform  
19 supply vessel as a floating truck. We  
20 transport fuel, water, drilling mud, as you  
21 mentioned, out to the rig, as well as food and  
22 other things that the crew may need, parts for  
23 the drilling, and then they would bring back  
24 brown water and other things off of the rug.

25 THE COURT: And in your



1 declaration you described the nature of the  
2 contractual relationships, either spot or  
3 period of months or months to a period of  
4 years.

5           What's a typical day or month  
6 like for a platform supplier? Are they  
7 supplying a number of platforms in a  
8 particular area? Are they just running back  
9 and forth like a truck would to one platform?

10           MR. FANNING: Very much a  
11 function of the concentration of activity. If  
12 you see the North Sea, whether it's the  
13 Norwegian side or the UK side, there is a  
14 concentration of activity, so customers can  
15 use what they call a pool arrangement where  
16 you would have a group of vessels that are  
17 supplying either the production platforms or  
18 the drilling rigs outside. They're under the  
19 supervision of that oil company.

20           That would also be the case in  
21 the Gulf of Mexico where there's a  
22 concentration of activity or in Mexico or  
23 Brazil where the drilling activity or  
24 production activity is dominated by a single  
25 oil company, in that case Pemex --



1 THE COURT: Sure.

2 MR. FANNING: -- or Petrobras.

3 In more remote locations it  
4 typically is a more monogamous relationship  
5 between the vessel owner and the oil company  
6 customer that is --

7 THE COURT: Sure.

8 MR. FANNING: -- going back and  
9 forth to a specific platform or drilling  
10 operation.

11 THE COURT: When I read your  
12 declaration I was struggling to appreciate the  
13 distinction between the platform supply vessel  
14 and the AHTS.

15 MR. FANNING: Okay.

16 THE COURT: Walk me through that  
17 a little bit.

18 MR. FANNING: Sure. AHTS or an  
19 anchor handling towing supply vessel is very  
20 similar to a platform supply vessel, but it  
21 has a large winch of the back deck which  
22 actually reduces both the fuel efficiency and  
23 the back deck space.

24 THE COURT: Sure.

25 MR. FANNING: So as a result it



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1 would be an inefficient substitute for a PSV  
2 typically.

3 But what the AHTS vessel has the  
4 capability of doing with that winch is either  
5 towing or helping set anchors typically for a  
6 semisubmersible rig, which, as you know,  
7 unlike a dynamically positioned rig, would set  
8 anchors when they're on a drilling location.

9 And an AHTS vessel, particularly  
10 the larger ones, has the ability to tow that  
11 semisubmersible to a drilling location --

12 THE COURT: (Unintelligible)  
13 10,000-horsepower engine.

14 MR. FANNING: -- and help  
15 position its anchors. They also serve as  
16 subsea support operations in some cases.  
17 Frequently you'll see a hole in the middle of  
18 the deck, which is a moon pool, through which  
19 they would drop equipment including our own  
20 ROVs for inspection, maintenance, and repair.

21 THE COURT: Tell me about your  
22 ROVs.

23 MR. FANNING: There's only eight  
24 of them.

25 THE COURT: That's more than most



1 people have.

2 MR. FANNING: Yes, Your Honor.  
3 This was a business that we got into a couple  
4 years ago as a product offering expansion for  
5 the end user customer. A remotely operated  
6 vehicle is unmanned, obviously. And  
7 essentially we would launch it overboard with  
8 a crane of some sort, and that vessel would  
9 be, as you saw in the Deepwater Horizon  
10 movie --

11 THE COURT: It's loaded with  
12 cameras and lights.

13 MR. FANNING: -- they use that  
14 as, it's kind of like a drone operator  
15 essentially moving the equipment around either  
16 to view equipment status in the subsea  
17 architecture of a drilling well. They can do  
18 minor maintenance work. But inspection,  
19 maintenance, and repair, as you point out.

20 THE COURT: How do you -- how do  
21 you contract for that?

22 MR. FANNING: Frequently -- well,  
23 I shouldn't say frequently, but it can be done  
24 either on a bundle basis with a vessel, so you  
25 would have a single service provider for the



1 end user oil company customer. You can also  
2 provide an ROV for use not on our vessel but  
3 another vessel that has an inspection,  
4 maintenance, repair contract with an end user  
5 customer.

6 So it can be a variety of  
7 different ways. But it's very similar to a  
8 vessel. It's a day rate-based contract.  
9 Sometimes it's for a short-term assignment and  
10 sometimes would be on a term basis, really a  
11 standby mode.

12 THE COURT: Where are the ROVs  
13 stored?

14 MR. FANNING: Currently they're  
15 stored in Houston, Texas. We have one  
16 vessel -- excuse me -- one ROV that is on  
17 board a third-party vessel, which is being  
18 marketed on a bundle basis. I think we have  
19 one or two that is about to start an operation  
20 with I believe it's BHP Billiton. That one  
21 actually sits off of Trinidad.

22 THE COURT: Okay. You listed  
23 that you also have crew support or crew --  
24 yeah, crew support vessels?

25 MR. FANNING: Crew vessels.



1 THE COURT: Crew vessels. Are  
2 they smaller vessels that just move back and  
3 forth?

4 MR. FANNING: Typically aluminum  
5 hull vessel, smaller in size and capital cost.  
6 A crew vessel can be used both to transport  
7 crew, as the name would suggest --

8 THE COURT: Sure.

9 MR. FANNING: -- as an  
10 alternative to a helicopter transport out to a  
11 production platform or drilling operation.

12 A crew vessel can also be used as  
13 essentially a hotshot vessel. It moves faster  
14 than the 11 or 12 knots that a larger vessel  
15 would move. And if you have an emergency part  
16 requirement, a supply vessel or crew vessel  
17 could be used for that.

18 THE COURT: I also noted that  
19 your affidavit reflected that in certain  
20 environments they're configured for security  
21 purposes.

22 MR. FANNING: Yes, Your Honor.

23 THE COURT: I assume that that's  
24 a continuing issue, security, I mean, in some  
25 of the places either off of the coast of



1 Africa, Persian Gulf, Arabian Gulf, I guess.

2 MR. FANNING: In fact, we have a  
3 vessel that is being outfitted for the Saudi  
4 Arabian -- excuse me -- the Saudi Arabian Navy  
5 that will serve as a security vessel in the  
6 Arabian or Persian Gulf, whatever your  
7 political preferences are. But more commonly,  
8 at least --

9 THE COURT: I'm not picking any  
10 fights here.

11 MR. FANNING: More commonly for  
12 us security vessels both for our own  
13 operations and markets we've sold equipment  
14 into would be Nigeria, where we have sold  
15 vessels into that security market. We've also  
16 for our own purposes had security operations  
17 off of East Africa when Anadarko was drilling  
18 off of Mozambique or Tanzania, I forget which.

19 THE COURT: Is that a service  
20 that's provided by your company as well?

21 MR. FANNING: It is not, Your  
22 Honor. We typically have a security  
23 consultant on board. There are lots of  
24 insurance issues, as you might suspect.

25 THE COURT: That sounds like one



1 of those things that's just dying for quotes,  
2 we have a security consultant on board.

3 MR. FANNING: But what we prefer  
4 would be a sovereign Navy personnel or Marine  
5 personnel on board under the supervision of a  
6 security consultant. We will do defensive  
7 operations, but we will not support offensive  
8 operations for a pirate attack or something  
9 like that.

10 THE COURT: I just have to share  
11 that last year with my son's scout troop, Boy  
12 Scout troop, we went to Norfolk and among  
13 other things toured the USS Kearsarge, which  
14 is an amphibious assault ship that was at that  
15 point getting ready to head to the Middle  
16 East.

17 And one of the boys asked the  
18 executive officer who gave us the tour, "Are  
19 you guys worried about pirates?"

20 And his answer was, "Son, there  
21 are 1,500 marines on this ship that can do  
22 nothing but wait, weightlift, and train.  
23 They're praying for pirates."

24 I appreciate the background on  
25 the business. Again, all kidding aside, it is



1 just fascinating because all of us pull up to  
2 the pump all the time, and only in the last  
3 couple years, at least for people in my  
4 business, have we had some sense of what  
5 happens to get it there.

6 I am, obviously, aware from your  
7 declaration as well as from just other matters  
8 and the news the challenges facing this  
9 industry. So at this point I don't think I  
10 have any other specific questions for you, but  
11 I do really appreciate the benefit of your  
12 input on the nature of the company's business,  
13 and I'll look forward to the thumb drive.

14 MR. FANNING: Thank you, Your  
15 Honor.

16 THE COURT: Mr. Schrock.

17 MR. SCHROCK: Yes, Your Honor.

18 THE COURT: I've had my fix.

19 MR. SCHROCK: Thanks very much,  
20 Your Honor.

21 Your Honor, and, you know, just a  
22 little bit, just one other thing I think is  
23 relative, and in particular to the relief that  
24 we're seeking today about the business, we  
25 were very mindful of how -- what the company's



1 business is, how it contracts with  
2 counterparties, 90 percent of its business  
3 being foreign, you know, a good chunk of its  
4 business being on a daily spot basis, and,  
5 frankly, most of its contracts being able to  
6 be terminated upon short notice, it really  
7 does, I think, for those of us who have been  
8 living with the company for the last year  
9 plus, we understand the critical nature of  
10 speed for a company like this because things  
11 can fall apart relatively quickly if -- it's  
12 harder to explain in some jurisdictions the  
13 true nature of a Chapter 11 case.

14 THE COURT: No. I do understand.  
15 And I gather that from, obviously, from the  
16 declaration, but I also dealt with, I think,  
17 very, very similar concerns in the context of  
18 the prior case that I had. The issue was all  
19 about the contracts and their --

20 MR. SCHROCK: Absolutely.

21 THE COURT: And, frankly, the  
22 services industry, at least it's my  
23 understanding, and I think it's consistent  
24 with the declaration, is ferociously  
25 competitive now just because of the supply





1 that's out there.

2 MR. SCHROCK: It really is. It's  
3 a very difficult time, Your Honor.

4 THE COURT: Okay.

5 MR. SCHROCK: In terms of the  
6 capital structure, Your Honor, it's a  
7 publicly -- Tidewater is a publicly listed  
8 company. It's traded on the New York Stock  
9 Exchange. Our intent is to do our very best  
10 to keep the company listed throughout these  
11 proceedings, and then it will be publicly  
12 listed upon emergence.

13 It has roughly \$2 billion in  
14 debt, all of which is unsecured, which is a  
15 little novel.

16 THE COURT: I don't want to get  
17 off topic, but how did that happen?

18 MR. SCHROCK: Your Honor, till  
19 the downturn, Tidewater was an investment  
20 grade company.

21 THE COURT: Okay.

22 MR. SCHROCK: You know, the  
23 downturn has hit the offshore market very  
24 hard. They have about 900 million outstanding  
25 under the credit agreement that is guaranteed



1 by substantially all the debtors, 1 billion of  
2 unsecured notes, and then another \$92 million  
3 of U.S. dollar equivalent Troms, Norwegian.

4 THE COURT: On the Troms credit  
5 agreement.

6 MR. SCHROCK: Absolutely.

7 THE COURT: I can see the  
8 discussion of that.

9 MR. SCHROCK: Absolutely.

10 The company has approximately  
11 700 million of cash and cash equivalents as of  
12 the filing of these cases. That's because,  
13 among other things, they do down on the full  
14 \$600 million revolver under the credit  
15 facility in March 2016.

16 So in terms of how we got here,  
17 Your Honor, and you've already mentioned the  
18 downturn and we've talked about the fact that  
19 it was an investment grade credit, I think  
20 that, as the professionals that are involved  
21 before you would attest, you know, nobody, I  
22 think including the debtors, expected the  
23 downturn to be this severe or this long.

24 And when we first became engaged  
25 with Tidewater, I think everybody was in good



1 faith really working toward an amendment and  
2 to see how could we, you know, what could we  
3 do, how could we keep the company out of a  
4 court-supervised proceeding. But it became  
5 apparent during the course of those  
6 negotiations that there was going to have to  
7 be something more significant done.

8 You know, there has been a marked  
9 decline in revenue. The company is burning  
10 substantial cash. And as these negotiations  
11 progressed, it became clear to the parties  
12 that a comprehensive restructuring would be  
13 necessary to ensure the survival of Tidewater  
14 and position it for the future.

15 And now following near a year of  
16 hard work and negotiations, they're in a  
17 position to present these prepackaged cases.  
18 So let's go over the plan very quickly.

19 THE COURT: Okay.

20 MR. SCHROCK: The plan was  
21 crafted with an expedited time frame in mind  
22 and that the company could not withstand a  
23 protracted Chapter 11 case. We believe that  
24 this plan results not only in the best  
25 possible outcome for our creditors but also



1 provides a very meaningful recovery to our  
2 existing shareholders.

3 And, you know, we fought very  
4 hard for that. We're proud of that on behalf  
5 of the debtors, and we appreciate the support  
6 of our creditors in understanding that the  
7 company with a very substantial cash position,  
8 a company that, you know, other parties could,  
9 you know, just try and hold out to have  
10 options.

11 The board wanted to do the right  
12 thing for the business, the management team  
13 wanted to do the right thing for the business,  
14 and we think we've crafted and, you know,  
15 threaded the eye of the needle, if you will,  
16 to get a solution that we believe works for  
17 everyone.

18 We started -- we signed the RSA  
19 last week. We launched solicitation this past  
20 Friday. We solicited votes from banks,  
21 bondholders, and certain sale leaseback  
22 parties.

23 The debtors have already received  
24 more than 70 percent, as I mentioned, in  
25 favor, and under the terms of the plan all



1 creditors are being paid in full, save the  
2 banks, bonds, and parties to certain sale  
3 leaseback agreements.

4 My partner, Mr. Perez, will  
5 handle at the end how we think about the sale  
6 leaseback agreements and what our proposed  
7 solution is for it, and we think we've worked  
8 through a plan and a schedule that works for  
9 everyone.

10 So what are the impaired  
11 creditors getting? They're getting their  
12 pro-rata share in cash of 225 million, new  
13 secured notes, principal amount of  
14 350 million, and only if the holder of a  
15 general unsecured claim qualifies as a U.S.  
16 citizen for Jones Act purposes, new common  
17 stock representing in the aggregate 95 percent  
18 of the total outstanding shares of reorganized  
19 Tidewater subject to dilution for the  
20 management incentive plan.

21 If they're not Jones Act  
22 compliant we've crafted new creditor warrants  
23 that provide basically an equivalent that we  
24 think was a creative workaround and works for  
25 the creditors.



1 THE COURT: Okay.

2 MR. SCHROCK: One proviso to this  
3 with respect to the consideration provided the  
4 sale leaseback claims that are disputed on the  
5 effective date and later become allowed claims  
6 shall only receive new creditor warrants.

7 Now, all other general unsecured  
8 claims are paid in full including all of our  
9 trade. Existing shareholders are getting  
10 5 percent of the new common stock subject to  
11 dilution from the MIP. They're getting series  
12 A and series B equity warrants. In the  
13 aggregate these warrants are for 15 percent of  
14 the company. They're seven years in duration.  
15 They have Black-Scholes protection in certain  
16 instances for a cash-dominated transaction.  
17 And, you know, we are confident this is a  
18 market-leaning recovery for existing  
19 shareholders.

20 We have a nondebtor Troms  
21 arrangement put in place where there's a  
22 forbearance, a new credit agreement that will  
23 become effective at the effective date of the  
24 plan. In the meantime there is a forbearance  
25 in place, but that has been fully negotiated,



1 and the debtors will guarantee the Troms upon  
2 emergence. But that small piece of debt, we  
3 were able to craft a solution that we believe  
4 worked for all parties.

5 THE COURT: Okay.

6 MR. SCHROCK: Now, we did file an  
7 agenda of matters. It's at ECF 24.

8 THE COURT: Right. I have it.

9 MR. SCHROCK: We filed an  
10 affidavit of service at ECF 56, served the top  
11 creditors.

12 And, Your Honor, unless you have  
13 any further questions, at this time I would  
14 like to move for entry of the declaration of  
15 Mr. Quinn P. Fanning into evidence, which can  
16 be found at ECF No. 15.

17 THE COURT: All right. Any  
18 objections to Mr. Fanning's declaration going  
19 into evidence in support of the debtors' case  
20 in chief for purposes of the various first day  
21 motions and applications for relief subject,  
22 of course, to the opportunity to cross-examine  
23 at the appropriate time?

24 Very well. It's admitted.

25 MR. SCHROCK: Thank you, Your



1 Honor.

2 Your Honor, I will turn the  
3 podium over to my partner, Mr. Perez.

4 THE COURT: Sure.

5 Mr. Perez, good morning.

6 MR. PEREZ: Good morning, Your  
7 Honor. I'm happy to be here.

8 Your Honor, I'm hoping that based  
9 on the discussions that we have had up until  
10 here that we will end up with fully consensual  
11 hearings, all of the hearings today. So I'm  
12 going to handle the first few items on the  
13 agenda, and then Mr. Lopez and Ms. Georgallas  
14 are going to do some, and then I'll come back  
15 to do the sale leaseback motion at the very  
16 end.

17 THE COURT: Okay.

18 MR. PEREZ: So, Your Honor, with  
19 the Court's permission, I would just like to  
20 proceed as on the agenda, if that's possible.

21 THE COURT: That sounds fine. I  
22 assume -- is the agenda going to crack my  
23 binder?

24 MR. PEREZ: The agenda will crack  
25 your binder. It's 28. And, Your Honor, I do





1 have -- we spent a fair amount of time with  
2 the U.S. Trustee with respect to the orders.  
3 I think these changes reflect all of their  
4 comments. I will not have the sale leaseback  
5 order because we just made changes right up to  
6 now.

7 THE COURT: Okay.

8 MR. PEREZ: So we'll get that to  
9 you today.

10 THE COURT: I think you can hold  
11 onto the orders for minute, and then I'll  
12 probably take them all at the end because we  
13 may need to plug in dates, and we are going to  
14 talk about scheduling, obviously, it being a  
15 prepack. Okay?

16 MR. PEREZ: Thank you, Your  
17 Honor. The first motion is 28 in the binder,  
18 which is Docket No. 3, which is the motion for  
19 joint administration, Your Honor.

20 THE COURT: So they gave you the  
21 joint admin motion.

22 MR. PEREZ: They said I couldn't  
23 go forward without the joint admin.

24 THE COURT: Denied. It's Friday.  
25 I am obviously busting your chops.



1           Let me ask, I regard this as  
2 routine, and I would ask if anyone wishes to  
3 be heard with respect to the relief -- the  
4 request for joint administration of these  
5 affiliated Chapter 11 proceedings.

6           Very well. I am prepared to  
7 approve and authorize the relief requested. I  
8 find that it is warranted under the rules,  
9 and, obviously, given the number of debtors  
10 that we have, I do believe that it will be  
11 beneficial to the clerk's office, to the  
12 Court, to the debtors, and to all stakeholders  
13 to have these matters jointly administrated.

14           And for purposes of this motion I  
15 do rely upon Mr. Fanning's declaration as well  
16 as the Court's long experience with  
17 similar-sized cases. The motion is granted.  
18 The order will issue.

19           MR. PEREZ: Thank you, Your  
20 Honor.

21           So the next motion on the agenda,  
22 No. 29, is the motion to set the hearing  
23 schedule, Your Honor. That's Docket No. 4.

24           And we set forth some hearing  
25 dates with the confirmation hearing on or



1 about June 29th. Any time during the week on  
2 June 26th, to the extent the Court has time,  
3 would be great.

4 THE COURT: I do. I do. And I  
5 think -- I'm looking. The 29th does not work,  
6 but I believe that we could do the 27th.

7 MR. PEREZ: Perfect, Your Honor.

8 THE COURT: Mr. Stamer.

9 MR. STAMER: Your Honor --

10 THE COURT: Welcome, sir.

11 MR. STAMER: Thank you. For the  
12 record, Michael Stamer from Akin Gump. If I  
13 may --

14 THE COURT: Sure.

15 MR. STAMER: I don't mean to  
16 interrupt Mr. Perez's presentation, and I am  
17 always loath to stand up when Mr. Schrock is  
18 giving his opening.

19 THE COURT: Okay.

20 MR. STAMER: But to say this is a  
21 fully consensual first day hearing --

22 THE COURT: Okay.

23 MR. STAMER: -- is a slight  
24 overstatement.

25 THE COURT: Okay.



1 MR. STAMER: And I would like to  
2 address a number of concerns that our clients  
3 have. Let me take a step back. We represent  
4 an ad hoc group of nonconsenting lenders. As  
5 Mr. Schrock described, there's about  
6 \$900 million of bank debt. Our group owns,  
7 controls, or has commitments to purchase in  
8 excess of 30 percent, and we're in contact  
9 with other -- one or more other lenders that  
10 is similarly opposed to the deal that is  
11 evidenced by the plan.

12 THE COURT: Okay.

13 MR. STAMER: So, Your Honor, if  
14 Mr. Perez wants to present the motion with  
15 respect to scheduling, what I would like to do  
16 is give the Court the benefit of the other  
17 side of the picture, give the Court some  
18 observations, and maybe have some suggestions  
19 with respect to scheduling based upon the fact  
20 that this is not a fully consensual case.

21 THE COURT: All right. I'll hear  
22 from Mr. Perez, then I'll hear from you in  
23 response.

24 MR. STAMER: Thank you.

25 THE COURT: Then we'll move



1 forward. Sure.

2 MR. PEREZ: Thank you, Your  
3 Honor.

4 Your Honor, we believe that based  
5 on the fact that we have a sufficient number  
6 of votes, even assuming that all of his  
7 clients voted against the plan, that we're  
8 prepared to go forward and providing basically  
9 what is five, six weeks notice of the hearing,  
10 of the combined hearing on the plan and  
11 disclosure statement is appropriate notice.

12 Obviously to the extent that  
13 Mr. Stamer's clients want to engage in  
14 discovery and things of that nature, we're  
15 certainly happy to begin discussions on that  
16 immediately.

17 But we think that based on  
18 Mr. Schrock's comments, especially the fact  
19 that we are in a business that's 90 percent  
20 overseas and that we're dealing with people  
21 who aren't necessarily attuned to what it  
22 means to be in a Chapter 11 case, that we  
23 think it's important to expeditiously move  
24 through this.

25 We don't think any of their



1 rights are being compromised. This has  
2 been -- being negotiated for a long time, and  
3 to the extent that they want to challenge the  
4 plan, I think they're going to have sufficient  
5 time to do so, Your Honor, and we would  
6 request that the Court enter the motion.

7 THE COURT: Okay.

8 MR. SCHROCK: Your Honor, just --

9 THE COURT: Sure.

10 MR. SCHROCK: Just for the  
11 record, Ray Schrock. Just to note,  
12 Mr. Stamer's group, they were in the bank  
13 group, the steering group that's been involved  
14 in the negotiations.

15 THE COURT: Okay. I understand  
16 that.

17 All right. Mr. Stamer, response.

18 MR. STAMER: Your Honor, I'll  
19 start by correcting Mr. Schrock's last  
20 statement, and that is that our clients, four  
21 institutions, affiliates or funds managed by  
22 Elliott, Oak Hill, Solis and Q Investments,  
23 they were not part of the steering committee.  
24 In fact, that's one of the complaints you'll  
25 hear in a minute.



1           Your Honor, I'm not here to  
2 litigate confirmation. We'll figure out when  
3 that's going to happen. What I'm here is to  
4 give the Court the benefit of what didn't show  
5 up in any of the pleadings and, frankly, I was  
6 surprised didn't show up in any of  
7 Mr. Schrock's opening remarks.

8           We have three issues, Your Honor.  
9 The first is we take issue with Mr. Schrock's  
10 statement that the deal for old equity that  
11 the company fought so hard for is a market  
12 deal. And I would refer the Court to the plan  
13 or the first days that were held yesterday in  
14 Gulf Mark. And I'll be specific in a minute.

15           So, Your Honor, we have three  
16 issues. The first is we think that the  
17 consideration going to old equity is  
18 inappropriate and excessive. We have very  
19 significant concerns about the process that  
20 preceded the Chapter 11 case, and, frankly,  
21 Your Honor, we're concerned that this plan of  
22 reorganization may not be confirmable in its  
23 current form.

24           So let's start with old equity,  
25 Your Honor. According to the company's own



1 numbers, ballpark \$2 billion of unsecured  
2 debt. The midrange of their recovery is that  
3 the \$2 billion of unsecured debt is getting  
4 about 65 cents on the dollar. So old equity  
5 is out of the money by \$700 million here, Your  
6 Honor.

7                   Notwithstanding that old equity  
8 is out of the money by \$700 million, as  
9 Mr. Schrock described, they're not only  
10 getting 5 percent warrants, which, again,  
11 according to their math is worth close to  
12 \$50 million, they are getting what we would  
13 refer to as platinum warrants. So it's  
14 warrants for 15 percent of the company.

15                   And Mr. Schrock, to his credit,  
16 disclosed that they have Black-Scholes  
17 protection too. So although they may be out  
18 of the money under their current valuation, if  
19 they do a transaction between now and the  
20 seven-year maturity, old equity gets paid  
21 again. And, again, that math is way beyond  
22 me, but it's based upon stock price,  
23 volatility, term of the warrant.

24                   Yes, Your Honor.

25                   THE COURT: You had three points.





1 MR. STAMER: That was one.

2 THE COURT: I want to make sure I  
3 got all three, and you promised you weren't  
4 litigating your confirmation.

5 MR. STAMER: I'm not, Your Honor.  
6 There's no witnesses being called to the  
7 stand. But, Your Honor, I just want to give  
8 you a flavor. That's all. I want to give you  
9 a flavor.

10 THE COURT: Okay. And obviously  
11 this is helpful to me because of anyone in  
12 this room, I am the furthest behind the  
13 learning curve. So I have no problem with you  
14 giving me context. We're obviously not  
15 litigating these issues today, and so this is  
16 helpful. And I would be, of course, happy to  
17 hear from the debtor in response as a  
18 practical matter.

19 MR. STAMER: Thank you, Your  
20 Honor. So, again, old equity. And, again,  
21 it's public record. Gulf Mark, it's an OSV  
22 company. Again, I'm not sure it's completely  
23 apples to apples. But while were getting --  
24 while old equity here is getting 5 percent and  
25 15 percent platinum warrants, Gulf Mark is



1 getting .75 percent of the new company, which  
2 has a value of about 2 and half million  
3 dollars on what -- old equity is getting here  
4 is 20 times more valuable, and they're getting  
5 twice as many, again, of these platinum  
6 warrants. That's number one.

7           Number two, Your Honor, which is  
8 probably even more problematic, we believe,  
9 our clients believe that the process that  
10 preceded the Chapter 11 filing effectively  
11 disenfranchised 300-plus million dollars of  
12 bank debt.

13           Your Honor, the history is --  
14 it's all laid out in the papers. So in March  
15 of last year the company drew down fully on an  
16 unsecured revolver, 600 million bucks, just  
17 right into the coffers. Three months later  
18 they were in default. And the negotiations,  
19 it's a little unclear. It appears they  
20 started maybe before that or after that.

21           Your Honor, our clients, for  
22 whatever reason, were effectively left out of  
23 the negotiating process. They were either not  
24 invited to participate in the bank steering  
25 group or, if they were invited -- and one I



1 believe was invited -- it was only conditioned  
2 upon signing a confidentiality agreement that  
3 doesn't have a blowup -- a blowout. So that  
4 means they're restricted forever.

5 And Your Honor can appreciate  
6 people in the buying and selling of  
7 securities, it's very difficult if not  
8 impossible to sign a blowout without -- a  
9 confidential agreement without a blowout.

10 Equally problematic, Your Honor,  
11 during the most critical parts of these  
12 negotiations, the prepetition negotiations,  
13 there are two members of our group that  
14 have -- and I specified this up front, that  
15 they have commitments to purchase. They are  
16 deemed owners of bank debt, but they don't own  
17 them because those trades haven't closed.

18 And during the critical phases of  
19 these negotiations it was clear that there was  
20 a moratorium placed on closing trades. And,  
21 look, we can get into the impact of that. You  
22 want to --

23 THE COURT: (Unintelligible)  
24 remarkable, right?

25 MR. STAMER: It is certainly



1 remarkable. It is remarkable. I think it's  
2 remarkable, Your Honor.

3 THE COURT: Okay.

4 MR. STAMER: Especially if it's  
5 done for purposes of controlling the outcome  
6 of the vote or influencing a vote as part of a  
7 plan of reorganization.

8 Your Honor, in addition, what the  
9 company did when they constructed the plan,  
10 knowing that the bondholders were very  
11 supportive of the plan -- and, Your Honor, it  
12 makes sense for the bonds to support the plan  
13 because if you do something out of court, you  
14 could always give that money back to the  
15 revolver.

16 So when the money was drawn from  
17 the revolver, it was to the direct benefit of  
18 the unsecured bondholders, and it created  
19 \$600 million --

20 THE COURT: (Unintelligible.)

21 MR. STAMER: -- of unsecured  
22 debt.

23 THE COURT: Right.

24 MR. STAMER: Exactly. So when  
25 they knew they had about a billion dollars of



1 bonds supporting, what they opted to do is to  
2 classify in one class the banks and the bonds.  
3 And what they've told you is now they have --  
4 it's fully consensual.

5 Well, if, Your Honor, if they  
6 would have separately classified the bank  
7 debt, which we think they probably should have  
8 done, we would not be in a situation where I  
9 would be standing up and objecting because  
10 what would have happened is the bank debt  
11 would have voted no because we control a  
12 third, and it would have been a violation of  
13 the Absolute Priority Rule to give equity in  
14 excess of distribution. Not that there  
15 wouldn't be a deal that was struck to actually  
16 give equity something, but our problem is with  
17 the magnitude of the distribution to old  
18 equity.

19 Your Honor, our concern with  
20 respect to what happened prepetition is that  
21 the company may have an issue with respect to  
22 their ability to carry their burden that  
23 they're pursuing the plan in good faith.

24 Lastly, Your Honor, the last  
25 confirmation issue that I'm not litigating is



1 best interest. And I tread lightly here.  
2 Look, we have all spent the last two years in  
3 courtrooms in Delaware and in Houston and  
4 Dallas looking over the carnage of not just  
5 E&P companies, but, even worse, service  
6 companies --

7 THE COURT: Sure.

8 MR. STAMER: -- which are  
9 dependent upon E&P. And even when E&P comes  
10 back, everyone acknowledges services don't  
11 come back so quickly.

12 THE COURT: Right.

13 MR. STAMER: This company is, it  
14 is dependent exclusively on the offshore  
15 global energy industry. And nobody knows, I  
16 don't, no one in this courtroom knows with any  
17 level of certainty when oil and gas prices are  
18 going to come back or when that industry is  
19 going to come back.

20 So what we're faced with here,  
21 Your Honor, is you've got a company, pursuant  
22 to their documents, they've got \$700 million  
23 of cash. They're projecting to burn, assuming  
24 the industry comes back when they hope it  
25 will, in excess of \$400 million before the end



1 of 2018. And, to add insult injury, they are  
2 allowing between 50 and \$80 million of value  
3 to leak out to old equity.

4 So based upon the volatility of  
5 the business, the uncertainty, the fact that  
6 the current and future going concern value is  
7 really predicated on a comeback to the  
8 industry that is, everyone will acknowledge,  
9 is at least very difficult to predict, our  
10 concern is at a confirmation hearing it is  
11 unclear whether the company is going to be  
12 able to satisfy the best-interest-of-creditors  
13 test.

14 So, Your Honor, I'm done. You  
15 understand what our three points are. We  
16 think they're very significant. We -- I raise  
17 them in the context of the scheduling motion  
18 because if you've got nobody objecting, then  
19 coming around, you know, July 29th is fine.

20 THE COURT: He said June 29th.

21 MR. STAMER: Oh, that's funny.  
22 Even then maybe it's not fine if nobody's  
23 objecting.

24 But June 29th, Your Honor, I have  
25 no idea how this is going to play out, how



1 litigious or not this is going to end up.  
2 We've got real concerns both with respect to  
3 the way we were treated, what the company did  
4 in preparation for this, and how this moves  
5 forward. And I wanted to make sure the Court  
6 had the benefit of where we stand when you  
7 schedule on a go-forward basis. And I believe  
8 the RSA says you have, the company has 75 days  
9 from the petition date --

10 THE COURT: It does.

11 MR. STAMER: -- for the plan to  
12 be confirmed. The company is asking for --

13 THE COURT: (Unintelligible.)

14 MR. STAMER: (Unintelligible).

15 The company is asking for 43. So this  
16 process, it may actually be helpful to give a  
17 little more time to the process.

18 THE COURT: I understand.

19 MR. STAMER: Thank you, Your  
20 Honor.

21 THE COURT: Mr. Perez.

22 MR. PEREZ: I'm not -- Your  
23 Honor, I'm not going to address the  
24 confirmation issues, but I'm not sure where  
25 the fact that there's going to be -- I don't





1 think there's going to be anywhere near  
2 \$400 million of burn, and I think the  
3 projections in there don't indicate anywhere  
4 near that amount. And on the trades, I'm just  
5 not aware of that.

6 MS. KYLE: I'm happy to speak to  
7 that. Amy Kyle --

8 THE COURT: Welcome.

9 MS. KYLE: -- Morgan Lewis on  
10 behalf of the bank agent.

11 There were not holds on trades.  
12 Unfortunately, the trading process --

13 THE COURT: Hang on.

14 MS. KYLE: -- can often be  
15 delayed.

16 THE COURT: I don't mean to  
17 interrupt, but I understand the issue. I'm  
18 under no illusions that there's consensus  
19 about how we got here or where we're going.

20 MS. KYLE: Right.

21 THE COURT: But I guess I would  
22 observe on these issues I have a scheduling  
23 question in front of me. I have heard from  
24 dissenting creditors, I guess I would call  
25 them, or ad hoc, and that informs the



1 questions that are in front of me, but I don't  
2 think I need a lot of back and forth about  
3 certain of the allegations. I think Mr. Perez  
4 is probably correct.

5 And I don't mean this -- I  
6 certainly am not being critical of  
7 Mr. Stamer's context because this case is  
8 presented as a prepack. I've had prepacks.  
9 Many of them have gone through very smoothly.  
10 Many of them have been the subject of dispute  
11 but remained on their schedules. Some have  
12 gone off of their schedule. None of this is  
13 news to anybody in this room.

14 So the issue of if there are  
15 issues, if there are problems with this  
16 transaction or if there's litigation to come,  
17 those are questions I'm not going to answer  
18 today. The question is what sort of schedule  
19 at least for purposes of today we're moving  
20 forward. But I appreciate the input.

21 MS. KYLE: Fair enough.

22 THE COURT: All right. Thank  
23 you, Ms. Kyle.

24 MR. PEREZ: Anyway, Your Honor,  
25 again we would urge the Court to adopt a



1 schedule, and if June 27th is available, we  
2 would be prepared to address the issues then  
3 and be prepared to go forward.

4 THE COURT: All right. Here's  
5 what we're going to do: I don't think I need  
6 to hear from anyone else on this at this  
7 point.

8 Mr. Fox.

9 MR. FOX: Briefly, Your Honor.

10 THE COURT: I'm always happy to  
11 hear from the Office of the United States  
12 Trustee. Good morning, sir.

13 MR. FOX: Good morning, Your  
14 Honor. Tim Fox on behalf of the United States  
15 Trustee. I'm appearing as substitute counsel  
16 for Linda Casey of my office. She's busy on  
17 another matter.

18 I rise briefly only to indicate  
19 that we raised informal concerns regarding the  
20 release mechanisms with the plan, and we just  
21 want to reserve our rights to argue those at  
22 confirmation when appropriate.

23 THE COURT: Of course.

24 MR. FOX: Thank you.

25 THE COURT: Very good. Thank



1 you, Mr. Fox.

2 All right. I'm going to schedule  
3 a hearing for the 28th of June. And I guess I  
4 would share the following observations: I  
5 hear Mr. Stamer's concerns loud and clear.  
6 And, again, I'm probably the least up to speed  
7 to be able to effectively predict where we go  
8 from here. There may be litigation. There  
9 may be negotiations. There may be other  
10 steps.

11 But I approach this at a  
12 threshold level as a scheduling request from a  
13 debtor. This debtor has come into court with  
14 a large and significant transaction that has  
15 substantial stakeholder support. It may not  
16 be unanimous, but it's not required to be  
17 unanimous.

18 I make no comment about whether  
19 the debtors will be able to carry their burden  
20 in a matter of weeks for purposes of planned  
21 confirmation and approval of the disclosure  
22 statement in the context of a prepackaged  
23 bankruptcy.

24 But given, again, the steps that  
25 have been taken to lead us to today and the



1 commitments that have been obtained from some  
2 stakeholders within the exercise, I'm  
3 satisfied that the debtors have demonstrated  
4 that, at least until I'm convinced otherwise,  
5 that the schedule that they've identified is  
6 appropriate.

7 That much having been said,  
8 again, I have no comments or observations with  
9 respect to what will happen in the course of  
10 the next month or so, month and a half, but I  
11 think all parties or most of you in the  
12 courtroom have spent plenty of time in dealing  
13 with me. I have little affection for motion  
14 practice that relates to scheduling, that  
15 relates to discovery and process.

16 And particularly in a  
17 circumstance where a debtor is looking to move  
18 forward on a tight basis, if there's discovery  
19 and there's litigation, I'm confident that the  
20 debtor is aware that they're obliged to  
21 respond in a manner that would let them with a  
22 straight face continue to demand the  
23 scheduling.

24 Mr. Stamer I think is probably  
25 going to tell me it's unrealistic to get to



1 the issues that he's identified in the period  
2 that's available under the timing that the  
3 Court has set. If that process plays out, so  
4 be it, and I'll be available to deal with the  
5 parties by phone or scheduling conferences at  
6 your convenience if these issues do gel.

7 But for purposes of the record  
8 before me today, again, I have a substantial  
9 transaction that reflects, again, substantial  
10 stakeholder support, not unanimous, and I  
11 understand that. But I think the company gets  
12 the benefit of the doubt at the outset of this  
13 process to remain on the timeline.

14 I also, at least for our initial  
15 purposes, am satisfied that any prepackaged  
16 bankruptcy brings with it a measure of urgency  
17 because of the nature of the agreements that  
18 are put together and, frankly, the bubblegum  
19 and baling wire that holds it all together.

20 And I am also satisfied, again,  
21 at least for purposes of today's hearing,  
22 subject, of course, to the opportunity to  
23 revisit issues of scheduling, that the debtors  
24 have alleged credibly that the nature of their  
25 business requires prompt proceeding through



1 its reorganization efforts.

2 As a practical matter, every case  
3 presents that. Nobody is happy being in  
4 bankruptcy and nobody's customers are happy  
5 about it. But, again, I have heard and  
6 considered this in other circumstances in  
7 other courts in other cases, and so I  
8 understand that.

9 So for purposes of our  
10 scheduling, you've asked for the 29th. I  
11 can't do that. I will give you the 28th at  
12 9:30 a.m. And we'll, if we have issues with  
13 respect to scheduling, we'll deal with them in  
14 the weeks to come. All right?

15 MR. PEREZ: Thank you, Your  
16 Honor.

17 THE COURT: As far as the steps  
18 backwards, I think that that's just a change  
19 of dates by one day from the proposal, so  
20 otherwise I don't really have any significant  
21 issues with that.

22 MR. PEREZ: And, Your Honor, we  
23 can make those changes and submit the order  
24 under certificate of counsel --

25 THE COURT: Sure.



1 MR. PEREZ: -- later on. Thank  
2 you, Your Honor.

3 The next item on the agenda is  
4 the retention of Epiq under 156(c).

5 THE COURT: Sure. I regard this  
6 as largely routine as well.

7 Mr. Fox, has your firm or  
8 Ms. Casey had an opportunity to review the  
9 Epiq application and is it satisfactory?  
10 We're looking for a thumbs-up from Ms. Casey.

11 MR. FOX: I think we can change  
12 places at this moment, Your Honor.

13 THE COURT: Mr. Fox, as always,  
14 thank you for your service.

15 Ms. Casey, welcome.

16 MS. CASEY: I believe we had some  
17 minor revisions, but we had no objections.

18 THE COURT: Very good. Does  
19 anyone else wish to be heard with respect to  
20 the Epiq retention?

21 MR. FOX: Your Honor, may I be  
22 excuse formally?

23 THE COURT: Have a great weekend.  
24 Thank you.

25 All right. I am prepared to





1 approve and authorize the relief requested.  
2 The Court is certainly familiar with Epiq and  
3 has dealt with them in many, many prior cases.  
4 I have had an opportunity to review the  
5 retention -- the terms of the retention.

6 I am satisfied as well that the  
7 Office of the United States Trustee has had an  
8 opportunity to review and is now satisfied  
9 with it. As always, I appreciate the input  
10 and engagement from the Office of the U.S.  
11 Trustee in lead-up to these cases.

12 And, again, our local rules  
13 require in a case of this size that the debtor  
14 move promptly to engage a claims and noticing  
15 agent, and that's even more important in the  
16 context of a proposed prepackaged proceeding.  
17 So based upon the record before me the  
18 application to retain Epiq is granted, and the  
19 order will issue.

20 Next matter.

21 MR. PEREZ: Thank you, Your  
22 Honor. The next matter, Your Honor, is Item  
23 No. 31 in your binder, Your Honor, Docket  
24 No. 6, which is the cash management order.

25 THE COURT: Right.



1 MR. PEREZ: And, Your Honor, we  
2 have made changes to the cash management order  
3 to address the concerns of the U.S. Trustee.  
4 This cash management order was obviously  
5 something that was heavily negotiated --

6 THE COURT: Sure.

7 MR. PEREZ: -- with both Ms. Kyle  
8 and Mr. Hermann, Paul Weiss.

9 Your Honor, the company has a  
10 worldwide cash management system with a kind  
11 of global master account at JPMorgan in New  
12 York that gets stuff in various currencies and  
13 it goes kind of up and out. So we have made  
14 changes to address her concerns.

15 With respect to the 345 issues,  
16 we've agreed to push those out for 30 days,  
17 and when we come back we'll have more  
18 discussion about that. But I don't believe  
19 that there are any objections.

20 THE COURT: Okay. Does anyone  
21 else wish to be heard with respect to the cash  
22 management and related relief?

23 Very well. Again I would express  
24 my appreciation to the U.S. Trustee. This is  
25 a common motion, but the nature of this



1 debtor's business activities makes it perhaps  
2 more complex than usual. But that doesn't  
3 change the practical nature of the relief  
4 that's requested and, in fact, may even  
5 underscore its importance.

6 The disruption to the debtor's  
7 business operations associated with  
8 potentially having to close accounts and  
9 rename accounts would be significant, again,  
10 particularly given, at least as currently  
11 postured, that the debtor is looking to move  
12 promptly through these proceedings.

13 So based upon the record before  
14 me I am satisfied that the debtors have  
15 carried their burden for purposes of the  
16 interim order authorizing them to retain --  
17 maintain their cash management system as well  
18 as their business forms, bank accounts, and  
19 related relief, and we'll deal with any 345  
20 issues or other issues in the context of a  
21 final.

22 This motion is granted. The  
23 order will issue.

24 MR. PEREZ: Your Honor, in  
25 connection with that, is there a date --



1 THE COURT: Yes.

2 MR. PEREZ: -- for the final?

3 THE COURT: Yes. So we should  
4 have essentially a second day hearing.

5 MR. PEREZ: Correct, Your Honor.

6 THE COURT: Is the 14th of June  
7 too soon? No. The 14th should give you  
8 enough time for notice on retentions and that  
9 sort of thing, routine matters. We also may  
10 be here before then.

11 MR. PEREZ: The 14th is fine,  
12 Your Honor.

13 THE COURT: Okay. We'll go ahead  
14 with the 14th at 9:30 a.m.

15 MR. PEREZ: Your Honor, Mr. Lopez  
16 has the next few motions.

17 THE COURT: Great. All right.  
18 So that's for a second day hearing and any  
19 other matters that are otherwise routine,  
20 retentions, those sorts of things. I'll look  
21 for them on the 14th at 9:30 a.m.

22 Mr. Lopez, welcome.

23 MR. LOPEZ: Good morning, Your  
24 Honor. I will be handling the wage motion,  
25 the insurance motion, and the utilities --



1 THE COURT: Okay.

2 MR. LOPEZ: -- motion.

3 The wage motion was filed at  
4 Docket No. 7. Your Honor, the debtors in  
5 these cases really only have about 330  
6 employees. The interim relief that is being  
7 sought is about \$1.5 million, base  
8 compensation obligations of about 900,000,  
9 \$38,000 of expenses, about 160,000 of payroll  
10 taxes, and some 400,000 of employee benefits.

11 No employee is going to receive  
12 anything over the cap, Your Honor. The motion  
13 does discuss some retiree benefits, other  
14 reimbursements. None of that is being sought  
15 pursuant to the interim order, Your Honor.  
16 We're just seeking to pay employees their  
17 compensation at this point and reimburse  
18 expenses.

19 We did receive some comments from  
20 the United States Trustee, which are reflected  
21 in the order, and we have shared those orders,  
22 the red lines, with the United States Trustee,  
23 primarily putting in a chart --

24 THE COURT: Sure.

25 MR. LOPEZ: -- capping things.



1           So, Your Honor, we received no  
2 other comments.

3           THE COURT: Okay. Let me ask if  
4 anyone wishes to be heard with respect to the  
5 wages and benefits motion.

6           Okay. I am prepared to approve  
7 and authorize this relief as requested. I  
8 have dealt with this on many, many occasions,  
9 obviously, in prior cases. This is a routine  
10 motion, but that doesn't minimize its  
11 significance to the Court. I have probably no  
12 greater consideration than the treatment of  
13 the employees and the folks that look to this  
14 company for their weekly or monthly wage.

15           With respect to the relief  
16 requested, I do note that this does implicate  
17 Bankruptcy Rule 6003 in that it contemplates  
18 the payment of certain prepetition obligations  
19 within the first 20 days of the case.

20           Nevertheless, I am satisfied the  
21 debtors have carried their burden, and in so  
22 ruling I rely both upon Mr. Fanning's  
23 declaration as well as the Court's long  
24 experience with similar cases that in the  
25 absence of the relief requested the debtors'



1 reorganization effort would suffer the risk of  
2 immediate and irreparable harm.

3 I've said many times it's as a  
4 practical matter inconceivable to the Court  
5 that a debtor would propose to restructure a  
6 large and complex business and not timely pay  
7 its employees. So I am satisfied the relief  
8 requested is appropriate and warranted and the  
9 debtors have carried their burden.

10 This motion is granted. The  
11 order will issue.

12 MR. LOPEZ: Thank you, Your  
13 Honor.

14 THE COURT: Sure.

15 MR. LOPEZ: The next item I will  
16 be assessing is Docket No. 8. It's the  
17 debtors' motion to continue their insurance  
18 policies and programs and honor insurance  
19 obligations in the ordinary course of  
20 business.

21 As Mr. Schrock and Mr. Perez  
22 spoke earlier, the debtors have a global  
23 business and maintain, obviously, appropriate  
24 insurance to maintain their vessels,  
25 commercial liability, D&O, and excess



1 liability insurance, Your Honor, among others.  
2 The debtors are just seeking to maintain these  
3 policies in the ordinary course of business.

4 These policies were recently  
5 renewed, Your Honor, so we really only have  
6 about 70,000 in prepetition amounts, Your  
7 Honor. About 65,000 of that relates to Hallin  
8 Marine liability programs, so obviously very  
9 important to the debtors' business.

10 The motion also describes certain  
11 surety bonds, and we're just seeking to  
12 maintain and renew those in the ordinary  
13 course of business, Your Honor.

14 We received one minor comment  
15 from the United States Trustee, which has been  
16 reflected in the red lines, Your Honor, that  
17 we will submit to Your Honor.

18 THE COURT: Okay. All right.  
19 Does anyone wish to be heard with respect to  
20 what we'll call the insurance motion?

21 Okay. I will grant this motion.  
22 It's a basic proposition that a debtor  
23 operating under the authority of this court,  
24 and the U.S. Trustee guidelines are similar,  
25 such an entity is obliged to have appropriate





1 insurance, and so I -- and particularly given  
2 the nature of this company's business, it is  
3 appropriate that insurance policies be  
4 maintained and that the appropriate insurance  
5 coverage and related relief is accorded.

6 I do note that, and I think  
7 you're right, Mr. Lopez, that the relief does  
8 implicate Bankruptcy Rule 6003, perhaps to a  
9 relatively modest level, but, nevertheless, it  
10 does. But I am satisfied that the relief  
11 requested is necessary, absent which the  
12 debtors' reorganization effort will suffer the  
13 risk of immediate and irreparable harm, and in  
14 so ruling I rely upon Mr. Fanning's  
15 declaration and, again, the Court's experience  
16 with similarly situated companies.

17 So this motion is granted, and  
18 the order will issue.

19 MR. LOPEZ: Thank you, Your  
20 Honor.

21 The last one is the what we'll  
22 call the utility motion, Your Honor, filed at  
23 Docket No. 9. The debtors maintain very basic  
24 what we normally see, telecommunications,  
25 waste disposal, utilities. The chart attached



1 to the utility motion lists 13 utilities, Your  
2 Honor. The average two-week deposit that we  
3 propose to place is approximately \$33,000.

4 We've spoken to the United States  
5 Trustee and have agreed to place that deposit  
6 within five business days of entry of an  
7 order, of an interim order approving the  
8 motion, Your Honor.

9 We believe that the procedures in  
10 place are routine and customary for here in  
11 the district of Delaware, Your Honor, and so  
12 we would urge the Court to enter this motion  
13 as well.

14 THE COURT: Okay. Does anyone  
15 wish to be heard with respect to the utilities  
16 motion?

17 Very well. I'm prepared to  
18 approve and authorize this relief as well. I  
19 do find that the relief requested is  
20 consistent with that which the Court has  
21 approved on many, many prior occasions, and I  
22 believe that the procedure built into this  
23 order and as to which the debtor is seeking  
24 relief is striking an appropriate balance  
25 between the debtors' need for uninterrupted



1 utility service and the utility service  
2 providers' rights under Bankruptcy Code  
3 Section 366.

4 So based upon the record before  
5 me this motion is granted and this order will  
6 issue.

7 MR. LOPEZ: Thank you, Your  
8 Honor. I will now turn the podium over to my  
9 colleague Ms. Georgallas.

10 THE COURT: Welcome.

11 MS. GEORGALLAS: Good afternoon,  
12 Your Honor. Adriana Georgallas; Weil,  
13 Gotshal, Manges on behalf of the debtors.  
14 I'll be covering the next two items on the  
15 agenda.

16 THE COURT: Okay.

17 MS. GEORGALLAS: The next item is  
18 Item No. 35 at Docket No. 10, the debtors'  
19 prepetition tax motion.

20 Your Honor, pursuant to this  
21 motion the debtors request authority to pay  
22 prepetition taxes and assessments that the  
23 debtors remit periodically to various federal,  
24 state, local, and foreign taxing, licensing,  
25 regulatory, and other governmental



1 authorities.

2 As a matter of interim relief the  
3 debtors are requesting authority to pay  
4 approximately 22,000 in taxes that they  
5 believe will be due and payable within the  
6 first 21 days of these cases. Those taxes  
7 generally fall into the following categories:  
8 Franchise, sales and use, property, state,  
9 foreign, and regulatory assessments.

10 As Mr. Perez mentioned, we've  
11 conferred with the U.S. Trustee on the first  
12 day motions. We've incorporated one minor  
13 change to the order. That's just to put in a  
14 chart that breaks down the 22,000.

15 THE COURT: Okay.

16 MS. GEORGALLAS: And, further, in  
17 response to another comment, the debtors would  
18 like to state on the record that the debtors  
19 do not have any past due taxes and do not  
20 intend to pay any such past due taxes pursuant  
21 to the tax order.

22 THE COURT: Okay. All right.  
23 Does anyone else wish to be heard with respect  
24 to the taxes motion?

25 Very well. Based upon the record



1 before me I will approve and authorize the  
2 relief requested. This is a motion that is  
3 relatively common in large operating Chapter  
4 11 cases.

5 There are a variety of tax  
6 obligations that are in here. Obviously to  
7 the extent we're talking about sales and use  
8 taxes and other withholding taxes, those are  
9 generally under the case law treated as trust  
10 fund taxes and are not likely even property of  
11 the debtors' estate.

12 With respect to the other  
13 obligations, Mr. Fanning's declaration does  
14 reflect that the debtors' reorganization would  
15 suffer the risk of immediate and irreparable  
16 harm if those taxing or other regulatory  
17 authorities were to commence enforcement  
18 actions or otherwise proceed against the  
19 debtors.

20 The relief requested is  
21 particularly warranted under the circumstances  
22 of the cases currently postured given that the  
23 debtors are proposing under this plan and  
24 structure to pay general unsecured and routine  
25 obligations in the ordinary course. So I am



1 satisfied the relief requested is appropriate  
2 and warranted.

3 This motion is granted. The  
4 order will issue.

5 MS. GEORGALLAS: Thank you, Your  
6 Honor.

7 The next item on the agenda is  
8 Item No. 36 at Docket No. 11, what we call the  
9 oil trade motion. As a matter of interim  
10 relief the debtors are requesting authority to  
11 pay approximately 1.5 million that they  
12 estimate will become due and payable to trade  
13 creditors within the first 21 days of these  
14 cases which will be paid in the ordinary  
15 course of business.

16 As provided in the motion and the  
17 Fanning declaration, failure to pay such  
18 amounts may disrupt the debtors' operations  
19 and be value destructive. Your Honor, we  
20 submit that this relief is consistent with the  
21 plan. It provides to pay trade creditors in  
22 the ordinary course. There's adequate  
23 liquidity to do so, and a large amount of these  
24 claims, 1.75 million, are entitled to  
25 statutory or other priority.



1 THE COURT: Sure.

2 Does anyone wish to be heard with  
3 respect to the request to authorize payment to  
4 prepetition claims?

5 Ms. Casey.

6 MS. CASEY: I did request changes  
7 to be made the debtor has agreed to. I didn't  
8 hear her say that, and I just want to say on  
9 the record there are some changes (inaudible).

10 THE COURT: Okay. I appreciate  
11 your engagement.

12 All right. With respect to the  
13 relief requested, again, I am satisfied that  
14 the relief requested is appropriate and  
15 warranted, particularly, again, in the  
16 particular context of this case where the  
17 debtor is moving forward under a planned  
18 structure that would contemplate these being  
19 payed ordinarily and -- in the ordinary  
20 course.

21 So with respect to the relief  
22 requested, again, in the context of this case,  
23 this is relief that is routine in a  
24 prepackaged bankruptcy, and I am prepared to  
25 approve and authorize it on an interim basis



1 as requested.

2 In so ruling I will rely upon  
3 Mr. Fanning's declaration for purposes of  
4 demonstration that the debtor has met the  
5 obvious implications of Bankruptcy Rule 6003  
6 in that I do find that the debtors'  
7 reorganization effort does suffer the risk of  
8 immediate and irreparable harm in the event  
9 that these obligations are not paid.

10 And I think it was counsel's  
11 phrase that it would be essentially a  
12 value-destructive prospect, and I don't  
13 disagree that the record supports that  
14 conclusion.

15 Let me make one further  
16 observation. I've made this in many, many  
17 cases in different circumstances. A number of  
18 the motions that have recently been filed had  
19 specific amounts that the debtor calculated  
20 were likely to come due in the course of the  
21 next three weeks and which I've now  
22 authorized.

23 The provision of those  
24 accounts -- or of those figures is, I think, a  
25 developed practice by the Office of the United





1 States Trustee, and certain of my colleagues  
2 have encouraged that and I'm supportive of it.

3 Let me observe that to the extent  
4 that the debtors' best calculus is wrong in  
5 amounts that are, at least in the context of  
6 the case, not necessarily material, I would  
7 observe that I would be prepared to be  
8 flexible subject to engagement with the Office  
9 of the United States Trustee or other  
10 stakeholders.

11 If the amounts are off, I often  
12 find that it is more burdensome to have to  
13 proceed back to the Court to pay an insurance  
14 policy or to pay a workers' comp bond or  
15 something like that where the amounts -- where  
16 there's no controversy and the amounts are  
17 going to be nominal for purposes of the case.

18 But the fact of the matter is  
19 that you've got an order that limits the  
20 authority that you have, so what you have is  
21 at least guidance from me that to the extent  
22 stakeholders are supportive, I would entertain  
23 that sort of thing under certification. I  
24 regard it as largely routine.

25 Again, I think it's appropriate



1 for us to fix the debtors' authority at the  
2 outset, but I don't necessarily want to have  
3 that whipsaw back to emergency proceedings  
4 again to deal with a tax authority that you  
5 didn't -- that came out of the woodwork or  
6 that sort of thing. Okay?

7 MS. GEORGALLAS: Okay. Thank  
8 you, Your Honor.

9 THE COURT: Sure.

10 MS. GEORGALLAS: So with that I  
11 would like to turn it over to Mr. Perez.  
12 Thank you.

13 MR. PEREZ: So, Your Honor, kind  
14 of the corresponding aspect of that motion is  
15 the motion that is on, I think it's on 2037 in  
16 your book, 12 on the Docket, which is what I  
17 always refer to as the comfort order.

18 THE COURT: Don't call it the  
19 comfort order at the podium. I was about to  
20 berate you by saying, "Oh, this is the comfort  
21 order."

22 No. I understand. It is. And  
23 there's certainly lots of courts and lots of  
24 judges that expressed a lack of enthusiasm for  
25 entering an order that says this is what the



1 law is. But I think it's been pretty common  
2 in matters, in cases that have a significant  
3 foreign presence that the relief is  
4 appropriate.

5 It's the expectation that  
6 creditors and participants in the process that  
7 are in the United States are familiar with and  
8 generally would deem themselves to be bound by  
9 federal law. We've certainly seen less  
10 enthusiasm when we're dealing with other parts  
11 of the world, particularly where your client  
12 operates.

13 I would ask Ms. Casey if you had  
14 an opportunity to review the motion and does  
15 the U.S. Trustee have any position.

16 MS. CASEY: Your Honor, I have  
17 reviewed the motion. I did ask for one small  
18 change they've agreed to, just to add another  
19 provision of the automatic stay provision that  
20 would be applicable. Other than that small  
21 provision, we do not have any objection.

22 THE COURT: All right. Very  
23 good.

24 Does anyone else wish to be heard  
25 with respect to the motion relating to the



1 enforcement of Sections 362 and other sections  
2 of the code?

3           Very well. For the reasons that  
4 I've largely stated, I think experience  
5 teaches that it is helpful to a debtor to have  
6 a piece of paper to demonstrate or show to a  
7 creditor or a regulatory authority in a  
8 foreign jurisdiction that in fact there is a  
9 bankruptcy proceeding and there are legal  
10 consequences to that.

11           So I am satisfied that the relief  
12 requested is appropriate and warranted under  
13 the circumstances of this case and in so  
14 ruling I rely upon Mr. Fanning's declaration.  
15 The motion is granted. The order will issue.

16           MR. PEREZ: Thank you, Your  
17 Honor. And, Your Honor, it's also important  
18 for us to show people who isn't in bankruptcy  
19 as well as who is.

20           THE COURT: Agreed. Okay.

21           MR. PEREZ: Your Honor, the next  
22 motion is what I would call the NOL motion.  
23 It's at Docket No. 13, Your Honor.

24           The company has approximately  
25 \$64 million in net operating loss



1 carryforwards. We have several large holders.  
2 In essence what this does on an interim basis,  
3 it creates procedures only for the equity, not  
4 for the debt, to notify to the extent that  
5 they want to purchase or sell additional  
6 shares of stock during the pendency of the  
7 case.

8 We think this is a prophylactic.  
9 The effort is really -- I don't think there's  
10 any effort not to allow people to sell so long  
11 as it doesn't implicate the NOL to the extent  
12 that we just want to be aware and be able to  
13 make the decision as to whether in fact  
14 there's an implication of the loss of the  
15 NOL --

16 THE COURT: Okay.

17 MR. PEREZ: -- before the --

18 THE COURT: All right. Let me  
19 ask, does anyone wish to be heard with respect  
20 to the relief requested on the what we'll call  
21 the NOL motion and the procedures motion?

22 Very well. I will approve and  
23 authorize this relief on an interim basis. I  
24 do find that it is essentially procedural in  
25 nature. The debtor has identified that there



1 is a potentially valuable tax attribute. The  
2 record reflects possibly \$64 million. I make  
3 no comment on whether or not that's real or  
4 there or whether it survives.

5 I think that counsel's  
6 description of this as being protective or  
7 prophylactic in nature is appropriate. The  
8 idea here is to preserve whatever value may be  
9 there. And, again, I think that these are  
10 systems and procedures that have been  
11 developed and approved in prior cases, and I  
12 believe the relief requested is appropriate  
13 and warranted.

14 This motion is granted. The  
15 order will issue.

16 MR. PEREZ: Thank you, Your  
17 Honor.

18 And, finally, we come to the sale  
19 leaseback motion, which is the one that's  
20 garnered the most interest, at least prior to  
21 the hearing.

22 And, Your Honor, the debtor has  
23 currently 16 vessels that were subject to sale  
24 leaseback agreements. Of the 260 vessels,  
25 there's over 100 of our vessels that aren't



1 working right now, so we certainly don't need  
2 these additional vessels, and there's a cost  
3 associated with the lease payments of over  
4 2.6 million a month.

5 But for purposes of today, here's  
6 what I would like to do: We basically asked  
7 for several relief, number one, that the  
8 rejection be effective as of today -- as of  
9 the petition date so no additional  
10 administrative expense would accrue.

11 Number two, we asked for a  
12 procedure to determine -- to litigate the  
13 ultimate issue of what the claims -- of what  
14 the claim would be. And there's a significant  
15 dispute as to what the claim will be. We  
16 think it's more in the nature of about  
17 130 million. I think the other parties think  
18 it's closer to 300 million, so there's a  
19 significant delta.

20 And, three, Your Honor, we wanted  
21 to establish an amount for voting purposes  
22 under the plan, and then, four, we wanted to  
23 establish a reserve.

24 So in discussions with the  
25 parties, we would like to in essence modify



1 the relief that we're seeking as follows:  
2 Obviously we want the rejection to be  
3 effective as of the effective date. We would  
4 like the Court to set a hearing on the merits  
5 90 days out, so the week of August 21st, the  
6 week of August 28th.

7 THE COURT: Okay.

8 MR. PEREZ: We will stipulate  
9 that they don't have to file a proof of claim  
10 or file a 3018 motion and that the numbers in  
11 our motion will be the allowed amounts that  
12 will be temporarily allowed for voting  
13 purposes.

14 THE COURT: Can I ask you a  
15 question? That's the one that -- I don't have  
16 an issue with nunc pro tunc rejection. We  
17 dealt with that, we have standards for that,  
18 and I will be happy to address that issue.

19 I guess the question I have is  
20 fixing somebody's claim for purposes of voting  
21 at a first day hearing. I think I need  
22 confidence that they're either on board with  
23 that or that most of them or all of them have  
24 been heard, or is this something that we  
25 should do in a week's time.





1 MR. PEREZ: Your Honor, I think  
2 with respect to that issue -- and I'll let  
3 them speak. They're mostly here. I think  
4 I'll let them speak for themselves. But I  
5 think for that issue I think you may be  
6 satisfied.

7 And so then the other two things  
8 that we will leave to the second day hearing  
9 are the schedule, the interim schedule, not  
10 the end order --

11 THE COURT: Right.

12 MR. PEREZ: -- but the interim  
13 schedule and the cap for distribution  
14 purposes.

15 THE COURT: Okay.

16 MR. PEREZ: Okay? So basically  
17 it's half a loaf for us that. You know, we  
18 have set what they're going to do for voting  
19 purposes and we've set the end date and the  
20 rejection dead. And then the other two  
21 things, you know, what are the interim steps  
22 between now and the final hearing and what the  
23 cap will be, those will just be pushed off to  
24 the final hearing.

25 THE COURT: I understand. Can I



1 ask you a question? And, again, it's a  
2 functional question. Are you asking for me to  
3 approve the rejection today nunc pro tunc to  
4 yesterday?

5 MR. PEREZ: Yes, Your Honor.

6 THE COURT: Okay. I understand.

7 I would like to hear from the  
8 other parties.

9 Ms. Casey, we'll start with you.

10 MS. CASEY: Your Honor, it is the  
11 U.S. Trustee's position that all of the relief  
12 requested today is not appropriate in a first  
13 day hearing. We certainly will not stop a  
14 party who affirmatively consents to the order  
15 today to be binding upon them.

16 But as to anybody who objects  
17 that the 24 hours' notice of a first day  
18 hearing is insufficient or anybody who doesn't  
19 appear today so we don't know their position  
20 on it, there is certainly -- none of the  
21 relief requested is the kind that would cause  
22 irreparable harm and couldn't be pushed out to  
23 some hearing with more appropriate notice.

24 So that's our position.

25 THE COURT: Okay. I understand.



1 Mr. Stamer.

2 MR. STAMER: Your Honor, very  
3 briefly, I'm just not -- I'm not sure why this  
4 has to happen today with respect to the  
5 allowance for voting purposes.

6 As you heard in my earlier  
7 remarks, we have some concerns about the  
8 prepetition process and some voting. If my  
9 math is correct, they're talking about  
10 slotting into class three for voting purposes  
11 claims in excess of \$300 million.

12 UNIDENTIFIED SPEAKER: 275.

13 MR. STAMER: 275. I don't know  
14 if that's high, low, in the middle. And I  
15 don't know how they're going to vote. I don't  
16 know if they're actually locked up as part of  
17 this process so everyone's got the incentive  
18 to give them a big number because it continues  
19 to push this forward. All I ask is why do it  
20 today.

21 THE COURT: I understand.

22 MR. STAMER: Thank you, Your  
23 Honor.

24 THE COURT: Thank you.

25 Ms. Devan.



1 MS. DEVAN: Your Honor, Emily  
2 Devan of Reed Smith. I'm here on behalf --  
3 it's going to take me a moment, Your Honor.  
4 Sorry. I beg your forgiveness. I'm here on  
5 behalf of PNC Equipment Finance, Regions  
6 Commercial Equipment Finance, BBVA Compass  
7 Financial Corporation, Fifth Third Equipment  
8 Finance Company, and Mass Mutual Asset Finance  
9 LLC, who are all of the lessors who are --

10 THE COURT: Is that the entire  
11 universe of lessors? I think Bank of America  
12 was in the mix.

13 MS. DEVAN: Sorry. Yes. Bank of  
14 America Leasing Capital.

15 THE COURT: Great.

16 MS. DEVAN: They are in a  
17 slightly different position, but we do  
18 represent them as well. And here with me  
19 today in the court are David Eades and John  
20 Fagg of Moore & Van Allen on behalf of Bank of  
21 America Leasing --

22 THE COURT: Welcome, gentlemen.

23 MS. DEVAN: -- & Capital.

24 Also here with me today is David  
25 Bowsher of Adams and Reese on behalf of



1 Regions Commercial.

2 THE COURT: Great.

3 MS. DEVAN: And Mark Bossi of  
4 Thompson & Coburn on behalf of Fifth Third  
5 Equipment Finance.

6 THE COURT: Welcome, sir. Thank  
7 you.

8 MS. DEVAN: And, finally, on the  
9 phone are Richard Aguilar and Rudy Cerone of  
10 McGlinchey Stafford on behalf of BBVA Compass  
11 and Roger Clement of Verrill Dana on behalf of  
12 Mass Mutual Asset Finance.

13 I'm going to let David Bowsher  
14 take the initial step --

15 THE COURT: Okay.

16 MS. DEVAN: -- going through our  
17 position on this.

18 THE COURT: All right.

19 Mr. Bowsher.

20 MR. BOWSHER: Thank you, Your  
21 Honor.

22 THE COURT: Sure.

23 MR. BOWSHER: I think Mr. Perez  
24 accurately described our conversations this  
25 morning. And I appreciate Your Honor's



1 concern with some of the same things that,  
2 frankly, concerned us and the U.S. Trustee's  
3 Office concerns as well.

4 I think some of the additional  
5 conversations that Mr. Perez had had with us,  
6 I think in the hallway outside, went to  
7 clarifying the nature of what's being pushed  
8 off to the second day and really making clear  
9 that we're not talking about having an  
10 evidentiary hearing on the cap on the 14th, I  
11 believe Your Honor said.

12 THE COURT: Correct.

13 MR. BOWSHER: But pushing,  
14 basically pushing this consideration of this  
15 aspect of the motion to then.

16 MR. PEREZ: That's correct, Your  
17 Honor.

18 THE COURT: So I just want to be  
19 clear. Are your clients content with fixing  
20 for voting purposes your claims?

21 MR. BOWSHER: Speaking on behalf  
22 of Regions, yes, sir, Your Honor. At the  
23 level reflected in the motion we are  
24 comfortable with having our claims allowed  
25 today for voting purposes only.



1 I think the only other thing that  
2 I wanted to clarify from how Mr. Perez, I  
3 think, walked through our bullet point  
4 agreement was, to the extent possible, on the  
5 week of the 28th I think would work better for  
6 the final --

7 THE COURT: 28th of August?

8 MR. BOWSHER: 28th of August,  
9 that week.

10 THE COURT: We'll talk about  
11 scheduling on that in just a moment.

12 MR. BOWSHER: Sure. But I think,  
13 I think with that we've accurately described  
14 the consensus, at least that Regions and the  
15 debtors reached this morning.

16 THE COURT: Okay.

17 MR. BOWSHER: And I'll let  
18 Mr. Bossi speak for himself.

19 THE COURT: Very good.

20 Mr. Bossi.

21 MR. BOSSI: Good afternoon, Your  
22 Honor. Mark Bossi, Thompson Coburn on behalf  
23 of Fifth Third Equipment Finance Company.

24 We are satisfied with the  
25 resolution that's been described by Mr. Perez



1 on behalf of Fifth Third, and we understand  
2 that that would include the capping or, excuse  
3 me, the fixing of the claims for voting  
4 purposes only in terms of this first day  
5 hearing.

6 THE COURT: Okay.

7 MR. EADES: Your Honor, I'm David  
8 Eades for Bank of America Leasing Company.  
9 We've got the same understanding that Regions  
10 and Fifth Third do. The only difference is we  
11 believe our lease was terminated prepetition,  
12 so (unintelligible) --

13 THE COURT: I saw that in the  
14 papers, there's a back and forth on that.

15 MR. EADES: -- to reject. I  
16 think it was called purported termination, so  
17 I'm not exactly sure where the debtors are on  
18 that issue. But we didn't want to paper over  
19 it by assuming that it was rejected as if it  
20 were still extant on the petition.

21 MS. DEVAN: And, Your Honor, BBVA  
22 Compass Financial and Mass Mutual Asset  
23 Finance do share some of the concerns that  
24 were raised in Regions Bank's objections;  
25 however, they do agree with this compromise.





1 PNC Equipment Finance is also  
2 okay with the compromise; however, we did have  
3 a request to the debtors that they put on the  
4 record their procedure for the turnover of  
5 these vessels. As you can imagine, that is  
6 not as simple a proposition.

7 THE COURT: It says they are  
8 stacked up. I don't even want to know what  
9 that looks like.

10 MS. DEVAN: As you can imagine.  
11 So I do -- the debtors did say they would  
12 agree --

13 MR. PEREZ: Absolutely. And she  
14 indicated she would remind me. I forgot.

15 But, Your Honor, we have in the  
16 last few days provided information as to the  
17 contact people, both operational and someone  
18 in Mr. Lundstrom's legal department, about the  
19 redelivery of the vessels. And we will work  
20 with all of the various lessors and Bank of  
21 America, whatever their status is, to -- with  
22 respect to redelivery of the vessels, to make  
23 sure that it's done in a safe and secure  
24 fashion, Your Honor.

25 THE COURT: All right. Here's



1 what we're going to do: The relief requested  
2 is somewhat unusual, and I understand, and I  
3 don't necessarily fault the debtor for asking.  
4 I'm troubled by proceeding this way on the  
5 first day. And I appreciate the coordination  
6 and engagement between the debtor and various  
7 parties.

8 In the absence of, frankly,  
9 parties appearing, there's no way that I would  
10 approve this today. And also I have on many,  
11 many occasions approved nunc pro tunc  
12 rejection, but typically we don't do that on  
13 the first day because then theoretically the  
14 nondebtor counterparty is left with the  
15 obligation to seek relief from that order on  
16 an expedited basis.

17 And, again, it's a notice issue,  
18 and our case law and our practice has  
19 developed that if in fact nunc pro tunc relief  
20 is available, and our case law, I think, makes  
21 it abundantly clear that it is under the  
22 circumstances that you've already satisfied,  
23 at least from the record before me, then there  
24 does not seem to be a meaningful harm.

25 Here's what I would like to do:



1 As for the date that you've asked for, I will  
2 give you August 30th at 10:00 a.m. And you're  
3 welcome to work backward as you wish  
4 consistent with your schedules, and I would  
5 make myself available if we need pretrials or  
6 anything else leading up to this.

7 I would like to have -- instead  
8 of ruling on this motion today, I would ask  
9 that the parties get back on the phone with me  
10 next week on Wednesday, the 24th, and I would  
11 like to do that at 12:00 noon telephonically  
12 because here's, at least to me, the best way  
13 to square this circle from the Court's point  
14 of view: I hear from the U.S. Trustee and  
15 from other parties that is this in fact relief  
16 that has to happen today. And I understand  
17 the timeline that you're under.

18 To me, again, I appreciate the  
19 effort that's gone into it, I assume in the  
20 last few days, to try to close the loop with  
21 these folks, and I'm the last person to get in  
22 the way of what seems like a consensual  
23 arrangement.

24 Much of this, it seems to me,  
25 would be much -- would be easier for the Court



1 to deal with on a stipulation between the  
2 parties. If the parties are in agreement on  
3 the concept of rejection, you have a motion  
4 pending. If they're in agreement in terms of  
5 the allowance of their claim for a reserve, we  
6 may have debates about what the effect of that  
7 is or where they ought to be classified.  
8 That's a separate question.

9 But I would be prepared to deal  
10 with stipulations that would -- and, again,  
11 I'm not trying to put more work on you, but  
12 that's something that I think would be not  
13 terribly controversial in the context of a  
14 stipulated resolution of the requested relief  
15 in your motion because it does seem to me that  
16 I have everybody.

17 And, again, I'm the last person  
18 to get in the way of what are, I think,  
19 elegant resolutions you've gotten to get you  
20 your half a loaf. And I do think that there  
21 is a little bit more urgency to this, at least  
22 in the timeline that I've structured for you  
23 thus far.

24 But I think I would like to be  
25 advised by the parties if we can paper



1 arrangements between the parties. Then you'll  
2 essentially have your relief promptly. If  
3 there are issues or mechanics that we should  
4 talk about on the 24th, then we can do so.

5 But I'm reluctant to enter this  
6 order for two reasons. One is I'm not  
7 necessarily clear on what the consequences are  
8 of it and whether there are impacts to parties  
9 that are not before me today; and, second,  
10 that once you have this order, you will take  
11 it downstairs to Judge Walrath and tell Judge  
12 Walrath that Judge Shannon did this on the  
13 first day. And then I will have a long  
14 discussion about what the scope of my  
15 authority is. And having had that discussion  
16 from that side of the --

17 UNIDENTIFIED SPEAKER: But, Your  
18 Honor, you know the scope of your authority,  
19 right? There's no question about the scope of  
20 your authority.

21 THE COURT: On the 6th floor it's  
22 a different story.

23 UNIDENTIFIED SPEAKER: That's  
24 right.

25 THE COURT: But I think -- I



1 actually think that that would be the most  
2 appropriate way to proceed because it does  
3 seem that there is consensus as a business  
4 matter on these issues. I think it makes  
5 sense to button down some of the questions  
6 about return of the vessels, et cetera.

7 And again, I have no problem with  
8 structurally an arrangement between the  
9 parties being memorialized, but I'm reluctant  
10 to enter this order as presented on a first  
11 day. But, as I said, I'm prepared to give you  
12 the scheduling and the mechanics that you've  
13 got.

14 Does that make sense you,  
15 Mr. Perez?

16 MR. PEREZ: Absolutely, Your  
17 Honor. And I think probably the most  
18 important thing was the August 30th date.

19 THE COURT: That you've got.

20 MR. PEREZ: Because that's the  
21 hearing on the merits. And my only concern is  
22 that, you know, we know we have that date to  
23 the extent the parties have discovery or  
24 anything else that they want from us. They're  
25 on notice --



1 THE COURT: I'll be here.

2 MR. PEREZ: -- and I don't want  
3 that to be, you know, the holdup, that we're  
4 waiting for, you know, we're waiting, waiting,  
5 waiting for something.

6 THE COURT: No. I'll give you  
7 the date. Again, the reason I'm asking to get  
8 back on the phone with you on the 24th is  
9 essentially because I don't think that, at  
10 least as presented and on the record before  
11 me, I don't necessarily want to kick this over  
12 to the 14th of June.

13 MR. PEREZ: Understood.

14 THE COURT: Because that just  
15 leaves too many balls in the air, I think,  
16 from the point of view of the debtor and  
17 especially given, at least the progress that's  
18 been made with the affected parties thus far,  
19 it seems to me that memorializing it by way of  
20 stipulation may give you more effective and  
21 noncontroversial relief at this stage.

22 MR. PEREZ: Thank you, Your  
23 Honor.

24 Just two things. One, I have the  
25 forms of order --



1 THE COURT: Okay.

2 MR. PEREZ: -- other than the  
3 scheduling order, which we need to fill in a  
4 couple of dates.

5 THE COURT: I'll take that under  
6 certification.

7 MR. PEREZ: And then I don't have  
8 any order to present with respect to the sale  
9 leaseback motion until we have our  
10 conversation.

11 Your Honor, we also have a  
12 pending arbitration that's coming up, and we  
13 would like to submit an order -- we can do it  
14 now, or we can do it under certificate of  
15 counsel -- to lift the stay to allow us to go  
16 forward with that arbitration.

17 THE COURT: I saw that in the  
18 application -- or in the affidavit. I think I  
19 understand where it is. I guess -- and the  
20 affidavit was pretty clear that that is  
21 independent of this proceeding, and I've  
22 certainly dealt with the interplay at this  
23 Court's authority and arbitration.

24 Does the U.S. Trustee have any  
25 position with respect to allowing that to





1 proceed forward?

2 MS. CASEY: I have to admit --

3 MR. AGUILAR: Your Honor --

4 THE COURT: Hang on just a  
5 second. I've got counsel at the podium. I'll  
6 be happy to hear anybody on the phone in just  
7 a moment.

8 Ms. Casey.

9 MR. AGUILAR: Sorry.

10 MS. CASEY: I have to admit I  
11 hadn't seen it or focused on it, so if I can  
12 take a second to look at it.

13 THE COURT: Mr. Perez, let me ask  
14 a question. Actually, I've got counsel on the  
15 phone.

16 Counsel?

17 MR. AGUILAR: Your Honor, this is  
18 Richard Aguilar from New Orleans with the firm  
19 McGlinchey Stafford.

20 I haven't focused on that motion,  
21 but I believe, Mr. Perez, that motion deals  
22 with an arbitration with Leevac Shipyards and  
23 Jennings. And I also represent Leevac  
24 Shipyards and Jennings. I have not seen the  
25 order lifting the stay.



1 I would just like an opportunity  
2 to see it, if that's what it relates to, Your  
3 Honor.

4 THE COURT: Sure.

5 MR. PEREZ: There are actually  
6 two arbitrations, one starting with Leevac  
7 and the other one still with Leevac.

8 THE COURT: Okay.

9 MR. PEREZ: This is for  
10 Mr. Aguilar's order. And we're happy to send  
11 him the form of order.

12 THE COURT: All right.  
13 Mr. Stratton.

14 MR. STRATTON: Your Honor, I  
15 represent Gulf Coast, which is featured in the  
16 disclosure statement as having built two  
17 vessels for the debtors, and there is an  
18 arbitration pending. This is the first I've  
19 heard about this lift stay stipulation. I  
20 have no idea if it affects my client's  
21 arbitration or not, so it would be helpful to  
22 me to understand that better.

23 THE COURT: Why don't we do this  
24 We'll circulate -- I think you can circulate  
25 the proposed orders, let everybody take a look



1 at it. If everybody is on the same page --  
2 again, there's no suggestion that the matter  
3 is going to get tried in this court. You have  
4 the wind at your --

5 MR. PEREZ: (Unintelligible)  
6 certified copy of that part of the transcript,  
7 Your Honor.

8 THE COURT: Well, I haven't been  
9 asked to rule, but you at least get some  
10 advice. But on that point, Mr. Perez, you  
11 have the wind at your back.

12 I think the best way to proceed  
13 would be to share that with the parties. From  
14 my reading between the lines of Mr. Fanning's  
15 declaration and the disclosures about the  
16 arbitration, there's no intention that those  
17 arbitrations get caught up in this proceeding  
18 or otherwise, and so I leave that, frankly, to  
19 the wisdom of the stakeholders and the debtors  
20 about whether or not it should move forward.

21 I've often heard that, you know,  
22 again, the purpose of the lifting of stay is  
23 because it's expensive to stop an arbitration  
24 and get it started up again, and, again, I  
25 think parties can reach that conclusion.



1           If there's consensus, I would  
2 entertain that under certification of counsel  
3 at the convenience of the parties. If there's  
4 not consensus, then we would look to motion  
5 practice, and, again, if there's a need for  
6 hearing that promptly, you know how to get me.

7           UNIDENTIFIED SPEAKER: Absolutely.

8           THE COURT: Does that make sense?

9           UNIDENTIFIED SPEAKER: Your  
10 Honor -- yes, Your Honor. Absolutely.

11           Mr. Lopez reminds me reminds me  
12 that --

13           MR. AGUILAR: Thank you, Your  
14 Honor.

15           UNIDENTIFIED SPEAKER: -- we have  
16 to fill in the dates of the final hearing, so  
17 we'll do that and then present the schedule.

18           THE COURT: Okay. That sounds  
19 fine. And we'll go ahead and get them on the  
20 docket.

21           Mr. Perez, Mr. Schrock, is there  
22 anything more today?

23           MR. SCHROCK: Your Honor, Ray  
24 Schrock, for the record. I believe that's it.  
25 Thank you very much for the time today. We



1 greatly appreciate it. I will show restraint  
2 in responding to Mr. Stamer's comments, but we  
3 will certainly endeavor to keep the discovery  
4 out of the courtroom, and we understand our  
5 obligations as the debtor moving forward on an  
6 expedited basis, and we'll deal with all those  
7 points in turn.

8 THE COURT: You owe me a thumb  
9 drive.

10 MR. SCHROCK: I have it right  
11 here, Your Honor. I was going to hand it to  
12 Mr. Perez until I found out he was not going  
13 to hand it up to you. So I will do that right  
14 now.

15 THE COURT: That would be great.  
16 Any other matters before we  
17 adjourn?

18 All right. We'll stand in  
19 recess. Thank you very much, Counsel. Have a  
20 great weekend.

21 (The hearing adjourned at 12:39  
22 p.m.)

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CERTIFICATION

I, SUSAN ARNOLD YODER, transcriber,  
certify that the foregoing is a correct  
transcript, to the best of my ability, from  
the official electronic sound recording of the  
proceedings, in the above-entitled matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand and seal this 20th day of May, 2017,  
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SUSAN ARNOLD YODER, RPR

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