6/2024

UNITED STATES BANKRUPTCY COURT DISTRICT OF DELAWARE

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In re: : Case No.

:

: Chapter 11

:

:

Debtors :

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APPLICATION FOR AN ORDER APPOINTING [*name of claims and noticing agent*] AS CLAIMS AND NOTICING AGENT FOR THE DEBTORS PURSUANT TO 28 U.S.C. § 156(c), 11 U.S.C. § 105(a) AND LBR 2002-1(f)

The debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) hereby move for entry of an order, substantially in the form of Exhibit C hereto (the “Retention Order”) pursuant to section 156(c) of title 28 of the United States Code and section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq*. (the “Bankruptcy Code”), appointing [*name of claims and noticing agent*] as claims and noticing agent (“Claims and

Noticing Agent”) in the Debtors’ cases (the “Section 156(c) Application”). In support of the Section 156(c) Application, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.

This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28

U.S.C. §§ 1408 and 1409.

BACKGROUND

1. On , 20 (the “Petition Date”), the Debtors filed separate

voluntary petitions under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession, pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

1. Pursuant to a separate application filed on the Petition Date, the Debtors requested joint administration of the Debtors’ estates, as provided for in Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).
2. The Debtors are engaged in [*type of business*] and currently employ [*number of*

*employees*] people at all of their locations. [*Insert other pertinent information about the Debtors’*

*business here.*]

**RELIEF REQUESTED**

1. This Section 156(c) Application is made pursuant to 28 U.S.C. § 156(c), section 105(a) of the Bankruptcy Code and LBR 2002-1(f) for an order appointing Claims and Noticing Agent to act as the claims and noticing agent in order to assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in the Debtors’ cases. The Debtors’ selection of Claims and Noticing Agent to act as the claims and noticing agent has satisfied the Court’s ***Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)***, in that the Debtors have obtained and reviewed engagement proposals from at least two (2) other court-approved claims and noticing agents to ensure selection through a competitive process. Moreover, the Debtors submit, based on all engagement proposals obtained and reviewed, that Claims and Noticing Agent’s rates are competitive and reasonable given Claims and Noticing Agent’s quality of services and expertise. The terms of retention are set forth in the Engagement Agreement annexed hereto as Exhibit A (the “Engagement Agreement”); provided, however, that Claims and Noticing Agent is seeking approval solely of

the terms and provisions as set forth in this Application and the proposed order attached hereto.

1. Although the Debtors have not yet filed their schedules of assets and liabilities, they anticipate that there will be in excess of [ ] entities to be noticed. In view of the number

of anticipated claimants and the complexity of the Debtors’ businesses, the Debtors submit that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtors’ estates and their creditors.

1. Claims and Noticing Agent has acted as the claims and noticing agent in numerous cases of comparable size, including several cases currently pending in the United States Bankruptcy Court for this District. [LIST REPRESENTATIVE CASE CITATIONS][1](#_bookmark0)
2. By appointing Claims and Noticing Agent as the claims and noticing agent in these cases, the distribution of notices and the processing of claims will be expedited, and the clerk’s office will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of this Section 156(c) Application, the Debtors submit the Claims and Noticing Agent’s affidavit attached hereto as Exhibit B (the “Claims and Noticing Agent Affidavit”).
3. This Section 156(c) Application pertains only to the work to be performed by Claims and Noticing Agent under the Clerk’s delegation of duties permitted by 28 U.S.C. § 156(c) and SLBR 2002-1(f), and any work to be performed by Claims and Noticing Agent outside of this

1 Because of the voluminous nature of the orders cited herein, they are not attached to the Section 156(c)

scope is not covered by this Section 156(c) Application or by any Order granting approval hereof. Specifically, Claims and Noticing Agent will perform the following tasks in its role as claims and noticing agent (the “Claims and Noticing Services”), as well as all quality control relating thereto:

* 1. Prepare and serve required notices and documents in these chapter 11 cases in accordance with the Bankruptcy Code and the Bankruptcy Rules in the form and manner directed by the Debtors and/or the Court, including: (a) 341 Notice (Notice of Commencement of Case) in conformity with Local Form 132; (b) Notice of Claims Bar Date in chapter 11 cases; (c) Objections to Claims and Transfers of Claims; (d) Notice of Hearing on confirmation of Plan/Disclosure Statement; (e) Notice of Hearing on motions filed by United States Trustee; (f) Notice of Transfer of Claim; and (g) any motion to convert, dismiss, appoint a trustee, or appoint an examiner filed by the United States Trustee’s Office.
  2. Within seven (7) days of mailing, file with the Court a copy of the notice served with a Certificate of Service attached, indicating the name and complete address of each party served;
  3. Maintain copies of all proofs of claims and proofs of interest filed in the case;
  4. Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Claims and Noticing Agent, not less than weekly;

Application. Copies of these orders, however, are available on request of the Debtors’ proposed counsel.

* 1. Maintain the official claims register and specify the following information for each claim docketed: (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (e.g., secured, unsecured, priority, etc.), (vi) the applicable Debtor, and (vii) any disposition of the claim;
  2. Record all Transfers of Claims and make changes to the creditor matrix after the objection period has expired. The claims clerk shall also record any order entered by the Court that may affect the claim by making a notation on the claims register and monitor the Court’s docket for any claims related pleading filed and make necessary notations on the claims register. No claim or claim information should be deleted for any reason;
  3. Maintain a separate claims register and separate creditor mailing matrix for each debtor in jointly administered cases;
  4. File a quarterly updated claims register with the Court in alphabetical and numerical order. If there has been no claims activity, the claims clerk may file a Certification of No Claim Activity;
  5. Maintain an up-to-date mailing list of all creditors and all entities who have filed proofs of claim or interest and/or request for notices for each case and provide such list to the Court or any interested party upon request (within forty-eight (48) hours);
  6. Allow public access to claims and the claims register at no charge. The complete proof of claim and any attachment thereto shall be viewable and accessible by the public, subject to Local Rule 9037-1;
  7. Within fourteen (14) days of entry of an Order dismissing a case or within twenty-eight (28) days of entry of a Final Decree, (a) forward to the Clerk an electronic version of all imaged claims, (b) upload the creditor mailing list into CM/ECF and (c) docket a Final Claims Register. If a case has jointly administered entities, one combined register shall be docketed in the lead case containing claims of all cases.
  8. Within the earlier to occur of (a) fourteen (14) days of entry of an Order converting a case and (b) entry of a termination order, (x) forward to the Clerk an electronic version of all imaged claims; (y) upload the creditor mailing list into CM/ECF and (z) docket a Final Claims Register. If a case has jointly administered entities, one combined claims register shall be docketed in the lead case containing claims of all cases. A Final Claims Register and creditor mailing matrix shall also be docketed in each jointly administered case containing the claims and creditor mailing matrix parties, respectively, of only that specific case.
  9. Upon conversion of a chapter 11 case to a chapter 7 case, if there are more than two hundred (200) creditors, the claims agent appointed in the chapter 11 case shall (i) continue to serve all notices required to be served, at the direction of the chapter 7 trustee or the Clerk’s Office or (ii) submit a termination order.

1. Claims and Noticing Agent shall not employ any past or present employee of the Debtors for work that involves the Debtors’ bankruptcy cases.
2. The Debtors respectfully request that the undisputed fees and expenses incurred by Claims and Noticing Agent in the performance of the above services be treated as administrative expenses of the Debtors’ estates pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 503(b)(1)(A) and be paid in the ordinary course of business without further application to or order of the Court. Claims and Noticing Agent agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred, and to serve monthly invoices on the Debtors, the office of the United States Trustee, counsel for the Debtors, counsel for any official committee, if any, monitoring the expenses of the Debtors and any party-in-interest who specifically requests service of the monthly invoices. If any dispute arises relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.
3. Prior to the Petition Date, the Debtors provided Claims and Noticing Agent a retainer in the amount of $ . Claims and Noticing Agent seeks to first apply the retainer to all pre-petition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Engagement Agreement during the cases as security for the payment of fees and expenses incurred under the Engagement Agreement.
4. In connection with its retention as claims and noticing agent, Claims and Noticing Agent represents in the Claims and Noticing Agent Affidavit, among other things, that:
   1. Claims and Noticing Agent will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as the claims and noticing agent in the cases;
   2. By accepting employment in the cases, Claims and Noticing Agent waives any rights to receive compensation from the United States government in connection with the Debtors’ cases;
   3. In its capacity as the claims and noticing agent in the cases, Claims and Noticing Agent will not be an agent of the United States and will not act on behalf of the United States; and
   4. It is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.
5. To the extent that there is any inconsistency between this Application, the Retention Order and the Engagement Agreement, the Retention Order shall govern.
6. This Section 156(c) Application complies with the ***Protocol for the Employment of Claims and Noticing Agents under 28 U.S.C. § 156(c)*** and conforms to the standard Section 156(c) Application in use in this Court. The Debtors have provided copies of this Section 156(c) Application to the Clerk of Court and to the United States Trustee [ADD ADDITIONAL NOTICE PARTIES AS APPROPRIATE] and submit that no further notice is necessary under the circumstances.

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

for the maintenance and processing of claims and the distribution of notices.

Dated: , 20

*Attorneys for Debtors or Debtors in Possession*

By:

Name:

Address:

Telephone:

Local Form 134