

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re:	)	Chapter 11
JOURNAL REGISTER COMPANY, <i>et al.</i> , <sup>1</sup>	)	Case No. 12-13774 (SMB)
Debtors.	)	Jointly Administered

---

**ORDER AUTHORIZING THE ESTABLISHMENT OF CERTAIN  
NOTICE, CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively the “Debtors”) for entry of an order approving and implementing the notice, case management and administrative procedures annexed hereto as Exhibit 1 (collectively, the “Case Management Procedures”); and upon consideration of the First Day Declaration; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Journal Register Company (8615), Register Company, Inc. (6548), Chanry Communications Ltd. (3704), Pennysaver Home Distribution Corp. (9476), All Home Distribution Inc. (0624), JR East Holdings, LLC (N/A), Journal Register East, Inc. (8039), Journal Company, Inc. (8220), JRC Media, Inc. (4264), Orange Coast Publishing Co. (7866), St. Louis Sun Publishing Co. (1989), Middletown Acquisition Corp. (3035), JiUS, Inc. (3535), Journal Register Supply, Inc. (6546), Northeast Publishing Company, Inc. (6544), Hometown Newspapers, Inc. (8550), The Goodson Holding Company (2437), Acme Newspapers, Inc. (6478), 21st Century Newspapers, Inc. (6233), Morning Star Publishing Company (2543), Heritage Network Incorporated (6777), Independent Newspapers, Inc. (2264), Voice Communications Corp. (0455), Digital First Media Inc. (0431), Great Lakes Media, Inc. (5920), Up North Publications, Inc. (2784), Greater Detroit Newspaper Network, Inc. (4228), Great Northern Publishing, Inc. (0800), and Saginaw Area Newspapers, Inc. (8444). The mailing address for each of the Debtors is Lower Makefield Corporate Center, 790 Township Road, 3rd Floor, Yardley, PA 19067.

<sup>2</sup> All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Case Management Procedures, as set forth on Exhibit 1 hereto, are approved and shall govern all applicable aspects of these chapter 11 cases, except as otherwise ordered by the Court.
3. The next five omnibus hearings are scheduled as follows:
  - 10:00 a.m. on the 20th day of December, 2012;
  - 10:00 a.m. on the 24th day of January, 2013;
  - 10:00 a.m. on the 21st day of February, 2013;
  - 10:00 a.m. on the 19th day of March, 2013; and
  - 10:00 a.m. on the 25th day of April, 2013.
4. The Debtors' notice and claims agent, American Legal Claims Services LLC, is authorized to establish a case website available at <http://www.americanlegalclaims.com/jrc> where, among other things, electronic copies of all pleadings filed in these chapter 11 cases may be posted to be viewed free of charge. The Debtors shall also post a link to such Case Website on the Debtors' own website, <http://www.journalregister.com>.

5. Any notice sent by the Debtors or any other party in interest shall be deemed to comply with the requirements set forth in section 342(c)(1) of the Bankruptcy Code so long as the notice contains a reference to the information contained in footnote 1 of this Order.

6. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

7. The requirements set forth in Local Rule 9013-1(b) are satisfied.

8. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: November 30<sup>th</sup>, 2012  
New York, New York

/s/ STUART M. BERNSTEIN  
\_\_\_\_\_  
Stuart M. Bernstein  
United States Bankruptcy Judge

**EXHIBIT 1**

**Case Management Procedures**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

---

In re:	)	Chapter 11
JOURNAL REGISTER COMPANY, <i>et al.</i> , <sup>1</sup>	)	Case No. 12-13774 (SMB)
Debtors.	)	Jointly Administered

---

**NOTICE, CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

On September 5, 2012, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

On November [\_\_\_], 2012, the Court entered an order approving the notice, case management and administrative procedures (the “Case Management Procedures”) set forth herein pursuant to sections 102(1), 105(a) and 105(d) of the Bankruptcy Code, rules 2002(m), 9007 and 9036 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2002-2 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) [Docket No.[•]] (the “Procedures Order”). Anyone may obtain a copy of the Procedures Order, as well as any document filed with the Court in the Debtors’ chapter 11 cases (the “Chapter 11 Cases”), by: (a) accessing the website maintained by American Legal Claims Services LLC (the “Notice and Claims Agent”), at <http://www.americanlegalclaims.com/jrc> (the “Case Website”); (b) contacting the Notice and Claims Agent directly at 8475 Western Way, Suite 150, Jacksonville, FL 32256, by telephone at (904) 517-1442 or by facsimile at (904) 212-1693; or (c) for a nominal fee, accessing the PACER system on the Court’s website at <http://www.nysb.uscourts.gov/>. Finally, paper copies of all pleadings filed in the Debtors’ chapter 11 cases may be available from the Court.

---

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Journal Register Company (8615), Register Company, Inc. (6548), Chanry Communications Ltd. (3704), Pennysaver Home Distribution Corp. (9476), All Home Distribution Inc. (0624), JR East Holdings, LLC (N/A), Journal Register East, Inc. (8039), Journal Company, Inc. (8220), JRC Media, Inc. (4264), Orange Coast Publishing Co. (7866), St. Louis Sun Publishing Co. (1989), Middletown Acquisition Corp. (3035), JiUS, Inc. (3535), Journal Register Supply, Inc. (6546), Northeast Publishing Company, Inc. (6544), Hometown Newspapers, Inc. (8550), The Goodson Holding Company (2437), Acme Newspapers, Inc. (6478), 21st Century Newspapers, Inc. (6233), Morning Star Publishing Company (2543), Heritage Network Incorporated (6777), Independent Newspapers, Inc. (2264), Voice Communications Corp. (0455), Digital First Media Inc. (0431), Great Lakes Media, Inc. (5920), Up North Publications, Inc. (2784), Greater Detroit Newspaper Network, Inc. (4228), Great Northern Publishing, Inc. (0800), and Saginaw Area Newspapers, Inc. (8444). The mailing address for each of the Debtors is Lower Makefield Corporate Center, 790 Township Road, 3rd Floor, Yardley, PA 19067.

Pursuant to the Procedures Order, all notices, motions, applications, briefs, memoranda, affidavits, declarations, objections, responses and other documents filed in the Chapter 11 Cases are subject to, and will not be deemed properly served unless they are served in accordance with, these Case Management Procedures. To the extent there is a conflict between these Case Management Procedures and the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules shall govern in all respects, as applicable.

All parties in interest are strongly encouraged to review these Case Management Procedures in their entirety and consult their own legal counsel with respect to any of the matters discussed herein prior to filing any documents in the Chapter 11 Cases.

### **Case Management Procedures**

#### **I. General Case Administration and Pleadings**

- A. The Notice and Claims Agent is authorized, but not directed, to establish the Case Website available at <http://www.americanlegalclaims.com/jrc>, where, among other things, key dates and information about the Chapter 11 Cases will be posted.
- B. All documents filed in the Chapter 11 Cases, including, but not limited to, all notices, motions, applications, other requests for relief, all briefs, memoranda, affidavits, declarations, and other documents filed in support of such papers seeking relief (collectively, the “Pleadings”), objections or responses to the Pleadings (the “Objections”), statements related thereto (“Statements”) and replies thereto (the “Replies,” and together with the Pleadings, Statements and the Objections, the “Documents”) shall be filed electronically with the Court on the docket of *Journal Register Company*, Case No. 12-13774 (SMB), pursuant to the Court’s General Order M-399 (available at <http://nysb.uscourts.gov/orders/order2.html>), by registered users of the Court’s case filing system and by all other parties in interest on a 3.5 inch disc, preferably in portable document format (“PDF”), Microsoft Word or any other Windows-based word processing format. For those parties in interest that are unable to file electronically because they are not registered users of the Court’s case filing system—other than attorneys, who must provide an affidavit explaining why they cannot file documents electronically—such parties in interest shall submit any document they wish to file on a 3.5 inch disc, DVD or CD to the clerk’s office.
- C. A “Notice of Hearing” shall be filed and served concurrently with all Pleadings and shall include the following: (a) the title of the Pleading; (b) the parties upon whom any Objection to the Pleading is required to be served; (c) the date and time of the applicable Objection Deadline (as defined below); (d) the date of the hearing at which the Pleading shall be considered by the Court; and (e) a statement that the relief requested may be granted without a hearing if no Objection is timely filed and served in accordance with the Case Management Procedures.

- D. The applicable Objection Deadline (as defined below) and hearing date shall appear on the upper right corner of the first page of the Notice of Hearing and on the upper right corner of the first page of each Pleading. The applicable hearing date shall appear on the upper right corner of the first page of any filed Objection.
- E. Unless prior permission has been granted, memoranda of law in support of motions or Objections are limited to 35 pages and memoranda of law in support of Replies are limited to 15 pages and shall be filed in a text-searchable format. Exhibits to such pleadings, however, may be scanned and filed and need not be text-searchable. All memoranda shall be double-spaced, 12-point font, with 1” margins. Memoranda of ten pages or more shall contain a table of contents and a table of authorities.
- F. Nothing in the Case Management Procedures shall prejudice the right of any party to move the Court to request relief under section 107(b) of the Bankruptcy Code or Bankruptcy Rule 9018 to protect any entity with respect to a trade secret or confidential research, development, or commercial information or to protect a person with respect to scandalous or defamatory matter contained in a Document filed in the Chapter 11 Cases.

## II. Service

- A. All Documents shall be served, in the manner described herein, on the following parties (collectively, the “Standard Parties”):
  - (i) the Chambers of the Honorable Stuart M. Bernstein (the “Chambers”), United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, NY 10004;
  - (ii) the Debtors, Lower Makefield Corporate Center, 790 Township Road, 3rd Floor, Yardley, PA 19067, and their counsel, Young Conaway Stargatt & Taylor, LLP, 1270 Avenue of the Americas, Suite 2210, New York, NY 10020, and Morgan Lewis & Bockius, LLP, 101 Park Avenue, New York, NY 10178-0060;
  - (iii) the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”), 33 Whitehall Street, 21st Floor, New York, NY 10004 (Attn: Brian S. Masumoto, Esq.);
  - (iv) Lowenstein Sandler PC, proposed counsel to the Official Committee of Unsecured Creditors (the “Committee”), 1251 Avenue of the Americas, 17th Floor, New York, NY 10020 (Attn: Gerald C. Bender);
  - (v) counsel to any other statutory committee appointed in the Chapter 11 Cases;
  - (vi) Otterbuourg, Steindler, Houston & Rosen, P.C., counsel to Wells Fargo, N.A. as pre-petition and post-petition revolving lender;

- (vii) Akin Gump, Strauss, Hauer & Feld LLP, counsel for the Tranche A Lenders and Tranche B Lenders, One Bryant Park, New York, NY 10036-6745; and
  - (viii) Emmet, Marvin & Martin LLP, counsel to the Tranche A Agent and Tranche B Agent, 120 Broadway, 32nd Floor, New York, NY 10721.
- B. Furthermore, all Documents shall be served, in the manner described herein, on any person or entity with a particularized interest in the subject matter of a certain Document (each, an “Affected Party”).
- C. Any creditor, equity interest holder, or party in interest that wishes to receive notice in the Chapter 11 Cases and is not otherwise entitled to notice pursuant to the Case Management Procedures shall file a notice of appearance (a “Notice of Appearance”) and request for service of papers in accordance with Bankruptcy Rules 2002 and 9010(b) and the Case Management Procedures. The Notice of Appearance shall include the following: (a) the requesting party’s name and address; (b) the name of the client, if applicable; (c) the requesting party’s telephone number; (d) the requesting party’s email address for service by electronic transmission; (e) the requesting party’s address for service by U.S. mail, hand delivery and/or overnight delivery; and (f) the requesting party’s facsimile number for service by facsimile. Notwithstanding Bankruptcy Rules 2002 and 9010(b), no request for service filed in the Chapter 11 Cases shall have any effect unless the foregoing requirements are satisfied. Any individual or entity that does not maintain and cannot practicably obtain an email address must include in its Notice of Appearance a certification stating the same. Notice will be provided to these individuals or entities by U.S. mail, overnight delivery or facsimile at the Debtors’ discretion.
- D. The Debtors shall maintain a master service list (the “Master Service List”), which shall include the Standard Parties and all persons and entities that have filed a Notice of Appearance pursuant to Bankruptcy Rules 2002 and 9010(b) and the Case Management Procedures (the “Rule 2002 Parties”). The Master Service List shall contain addresses, facsimile numbers and email addresses. The Debtors shall use reasonable efforts to update the Master Service List as often as practicable, but in no event less frequently than every 30 days. The Master Service List and any updates thereto shall be filed electronically on the Court’s website, <http://ecf.nysb.uscourts.gov>, and on the Case Website commencing as of the date that is ten (10) days from the date these Case Management Procedures are approved.
- E. Pleadings and Objections must be served on the Master Service List and any Affected Parties. Replies and Documents filed in adversary proceedings are not required to be served on the Rule 2002 Parties.
- F. The proceedings with respect to which notice is limited to the Master Service List shall include all matters covered by Bankruptcy Rule 2002, with the express



exception of the following: (a) notice of (i) a meeting of the creditors pursuant to section 341 of the Bankruptcy Code, (ii) the time fixed for filing proofs of claim pursuant to Bankruptcy Rule 3003(c), and (iii) the time fixed for filing objections to, and the hearings to consider, approval of a disclosure statement and chapter 11 plan; and (b) notice and transmittal of ballots for accepting or rejecting a chapter 11 plan, which notices would be given in accordance with Bankruptcy Rule 2002 and other applicable Bankruptcy Rules, unless otherwise ordered by the Court or otherwise prescribed by the Bankruptcy Code. Pleadings related to a compromise or settlement must be served on the Master Service List and any Affected Parties, but need not be served on all creditors. Pleadings related to the abandonment or disposition of property must be served on the Master Service List and any Affected Parties, but need not be served on all creditors unless such Pleadings seek the abandonment or disposition of substantially all of the Debtors' property.

- G. Parties shall serve the Standard Parties and the Affected Parties by U.S. mail, overnight delivery, hand delivery or, with the exception of the Court and the U.S. Trustee, facsimile.
- H. Any of the Standard Parties and the Affected Parties may request service by email, and if such request is made, such parties may be served by email in accordance with the Case Management Procedures.
- I. Parties shall be authorized to serve all Documents on the Rule 2002 Parties by email.
- J. All Documents served by email shall include access to an attached file containing the entire Document, including the proposed form(s) of order and any exhibits, attachments and other relevant materials in PDF format, readable by Adobe Acrobat or an equivalent program. Notwithstanding the foregoing, if a Document cannot be annexed to an email (because of its size, technical difficulties or otherwise), the Debtors may, in their sole discretion: (a) serve the entire Document by U.S. mail or overnight delivery, including the proposed form(s) of order and any exhibits, attachments and other relevant materials or (b) email the parties being served and include a notation that the Document cannot be annexed and will be (i) mailed if requested or (ii) posted on the Case Website.
- K. Service by email shall be effective as of the date the Document is sent to the email address provided by the party. If service is made by email, the Debtors shall not be required to serve a paper copy of the Documents on interested parties and email service shall satisfy the Court's rules for service.
- L. To the extent service by email is adopted, such service shall not entail filing a document on the ECF system at <http://ecf.nysb.uscourts.gov> and having the ECF system generate a notice which includes a link to such document. Service by email is not and shall not be effectuated by filing a document on the ECF system, alone.

- M. If a party entitled to notice of a Document does not have an email address or an email address is not available to the Debtors, the party shall be served by U.S. mail, overnight delivery, facsimile or hand delivery, the choice of the foregoing being in the sole discretion of the party who is required to serve.
- N. Pursuant to Local Rule 9070-1, a printed copy of all papers filed with the Court, including those filed electronically, other than proofs of claim, shall be (a) marked “Chambers Copy” and delivered in an unsealed envelope to Chambers, not later than the next business day following the date on which such Document is electronically filed and (b) delivered to the U.S. Trustee.
- O. Upon the completion of noticing any particular matter, the party seeking relief shall file with the Court within three (3) business days either an affidavit of service or a certification of service attaching the list of parties that received notice; *provided, however*, that parties shall not be required to serve the affidavits of service on such recipients.

### III. Scheduling

- A. The Debtors shall be authorized to schedule, in cooperation with the Court, periodic omnibus hearings (the “Omnibus Hearings”) at which Pleadings shall be heard. Upon scheduling, the Notice and Claims Agent shall post the date of the Omnibus Hearings on the Case Website. The next five Omnibus Hearings shall be scheduled for the following dates and times:
- 10:00 a.m. on the 20th day of December, 2012;
  - 10:00 a.m. on the 24th day of January, 2013;
  - 10:00 a.m. on the 21st day of February, 2013;
  - 10:00 a.m. on the 19th day of March, 2013; and
  - 10:00 a.m. on the 25th day of April, 2013.
- B. Unless the Court orders otherwise, hearings in connection with claim objections, applications for professional compensation and reimbursement, pre-trial conferences, asset sales and trials related to adversary proceedings, approval of a disclosure statement, confirmation of a plan and any other Pleading filed by the Debtors may be scheduled for dates other than the Omnibus Hearing dates; *provided, however*, that hearings in connection therewith may be scheduled on a non-Omnibus Hearing date only after consultation with counsel to the Committee (which consultation shall occur as soon as practicable) and the Debtors shall include a statement in the filed Pleading as to the Committee’s position as to the scheduling of such non-Omnibus Hearing date; *provided, however*, that initial pre-trial conferences scheduled in connection with adversary proceedings involving the Debtors shall be set on the next available Omnibus Hearing date

that is at least 45 days after the filing of the complaint; and *provided, further*, that hearings on all other Pleadings, except for those Pleadings specifically referenced in this paragraph “B”, filed by any party must be scheduled for an Omnibus Hearing except for Pleadings requiring emergency relief.

- C. If a Document is filed by a party other than the Debtors and purports to set a hearing date inconsistent with the Case Management Procedures (an “Inconsistent Filing”), the hearing shall be scheduled without the necessity of Court order for the first Omnibus Hearing date after the applicable notice period has expired, and the Debtors shall provide such party with notice of the Case Management Procedures within three (3) business days of receipt of the Inconsistent Filing.
- D. If a movant or applicant other than the Debtors determines that a motion or application requires emergency or expedited relief, the movant or applicant is encouraged to contact counsel for (i) the Debtors and (ii) the Committee by telephone **advising that the movant or applicant will seek** ~~and request that the motion or application be considered on an expedited basis. If the Debtors or the Committee disagrees with the movant’s or applicant’s determination regarding the emergency or expedited nature of the relief requested, the movant or applicant is encouraged to (i) inform the Court of the disagreement by email and (ii) arrange for a chambers conference, telephonic or in person, to be held to discuss the disagreement. If the Court agrees with the position of the movant or applicant regarding the necessity for expedited consideration, the movant or applicant may, by order to show cause, request an expedited hearing.~~[SMB 11/30/12]
- E. In the event the Debtors seek emergency, shortened, or expedited relief, then the Debtors shall telephonically contact the Committee’s counsel advising that the Debtors will seek that the motion or application be considered on an expedited basis. ~~If the Committee disagrees with the Debtors’ determination regarding the emergency or expedited nature of the relief requested, the Debtors shall:~~ (i) inform the Court of the disagreement via email; and (ii) arrange thereafter for a chambers conference, telephonic or in person, to be held among the Court, the Debtors’ counsel and the Committee to discuss the disagreement. ~~If the Court agrees with the position of the Debtors regarding the necessity for expedited consideration, the Debtors may proceed with their request for an expedited hearing.~~ [SMB 11/30/12]
- F. If a Pleading seeks relief pursuant to Bankruptcy Rules 2002(a) or (b), the hearing to consider such Pleading shall be set in accordance with the time period set forth in Bankruptcy Rules 2002(a) and (b) and 9006. For all other Pleadings, with the exception of Pleadings filed pursuant to the Presentment Procedures (as defined below), **and except as otherwise provided in the Federal Bankruptcy Rules and the Court’s Local Rules,**[SMB 11/30/12] Pleadings shall not be considered unless filed and served in accordance with the Case Management Procedures at least 17 calendar days before the next applicable hearing date (if such 17th day is a date other than a business day, such Pleading must be filed and served by the first business day preceding such date); *provided, however*, that nothing in the

Case Management Procedures shall prejudice the right of any party to move the Court to request an enlargement or reduction of any time period under Bankruptcy Rules 9006(b) and (c).

- G. Notwithstanding the immediately preceding paragraph, a party may settle or present a proposed order for approval by the Court in accordance with Local Rule 9074-1; *provided, however*, that the presentment of a proposed order pursuant to Local Rule 9074-1(c) or any other similar administrative or standard order must be filed and served in a manner consistent with the governing service and notice requirements under the Bankruptcy Rules, and Objections thereto must be filed and served at least one (1) calendar day before the presentment date (the “Presentment Procedures”).
- H. The deadline to file an Objection (the “Objection Deadline”) to any Pleading shall be (a) 4:00 p.m. (Prevailing Eastern Time) on that date that is five (5) calendar days before the applicable hearing date or (b) any date otherwise ordered by the Court. The Objection Deadline may be extended with the consent of the movant or applicant. If such an extension has been agreed upon, the movant shall provide notice of the extension to Chambers. The Objection shall not be considered timely unless filed with the Court and received by the Standard Parties on or before the applicable Objection Deadline. All parties filing an Objection shall include their telephone number, facsimile number and email in the signature block on the last page of the Objection.
- I. If any Pleading, including a Stay Relief Motion (as defined below), is adjourned, the Objection Deadline with respect thereto shall be extended to 4:00 p.m. (Prevailing Eastern Time) on the date that is five (5) calendar days prior to the applicable hearing and all other applicable deadlines shall be likewise extended.
- J. The deadline to file Replies, joinders to an Objection or any Statement shall be: (i) 4:00 p.m. (Prevailing Eastern Time) on the date that is two (2) calendar days before the applicable hearing date or (ii) any date and time otherwise ordered by the Court; provided, however, that the deadline for the Debtors and the Committee shall be 4:00 p.m. (Prevailing Eastern Time) on the date that is one (1) calendar day before the applicable hearing date.
- K. Sur-replies shall not be permitted or considered unless authorized by the Court.
- L. By two (2) business days before a scheduled hearing, the Debtors shall file with the Court a letter (the “Agenda Letter”) setting forth each matter to be heard at the hearing (the letter must be updated after the initial submission, if necessary) and shall serve the letter(s) by email or facsimile on: (a) the Court; (b) the U.S. Trustee; (c) the Committee; and (d) any party that filed Documents referenced in the Agenda Letter; *provided, however*, that an Agenda Letter shall not be required where the Debtors have less than 48 hours’ notice of a hearing.

- M. The Agenda Letter will include, to the extent known by the Debtors: (a) the docket number and title of each matter scheduled to be heard at the hearing, including the initial filing and any Objections, Statements, Replies or Documents related thereto; (b) whether the matter is contested or uncontested; (c) whether the matter has been settled or is proposed to be continued; (d) the identification number of any proof(s) of claim(s) implicated in the Document; and (e) other comments that will assist the Court; *provided, however*, that the matters listed on the Agenda Letter shall be limited to matters of substance and shall not include administrative filings such as notices of appearance and affidavits of service.
- N. The Agenda Letter may include notice of matters that have been consensually adjourned to a later hearing date in lieu of parties filing a separate notice of such adjournment.
- O. In the event a matter is properly noticed for hearing and the parties reach an agreement to settle the dispute prior to the hearing, the parties may announce the settlement at the scheduled hearing; *provided, however*, that the parties notify counsel for the Debtors and the Committee of such agreement as soon as practicable prior to the hearing. In the event the Court determines that notice of the dispute and the hearing is adequate notice of the effects of the settlement (*i.e.*, that the terms of the settlement are not materially different from what parties in interest could have expected if the dispute were fully litigated), the Court may approve the settlement at the hearing without further notice of the terms of the settlement. In the event the Court determines that additional or supplemental notice is required, the Debtors shall serve such notice in accordance with the Case Management Procedures and a hearing to consider such settlement shall be on the next hearing day deemed appropriate by the Court.
- P. ~~Notwithstanding anything contained herein, a motion for relief from the automatic stay (a “Stay Relief Motion”) in accordance with section 362 of the Bankruptcy Code shall be noticed for consideration on the Omnibus Hearing Date that is at least 21 days after the Stay Relief Motion is filed and notice thereof is served upon the Debtors. Unless otherwise ordered by the Court, the Objection Deadline with respect thereto shall be the later to occur of (a) 14 calendar days after the date of filing and service of the Stay Relief Motion and (b) three (3) calendar days prior to the hearing scheduled with respect thereto.~~
- Q. ~~Notwithstanding section 362(e) of the Bankruptcy Code, if a Stay Relief Motion is scheduled in accordance with the Case Management Procedures for or adjourned to a hearing date that falls on or after the 30th day after the filing of the Stay Relief Motion, the moving party shall be deemed to have consented to the continuation of the automatic stay in effect pending the conclusion of, or as a result of, a final hearing and determination under section 362(d) of the Bankruptcy Code and shall be deemed to have waived its right to assert the termination of the automatic stay under section 362(e) of the Bankruptcy Code.~~

- R. Pursuant to Local Rule 7056-1, no motion for summary judgment may be made without first seeking a pre-motion conference. A request for such conference should be made by letter, filed electronically on the Court's website, <http://ecf.nysb.uscourts.gov>, setting forth the issues to be presented under the summary judgment motion.
- S. Motions for reargument must identify with particularity the matter for reconsideration in accordance with Local Rule 9023-1. If, after review of the motion **and any responses**, the Court determines that it wishes ~~a response and/or a hearing to hear argument~~, it will notify the parties accordingly. **[SMB 11/30/12]**

#### **IV. Telephonic Appearances**

- A. If a party desires to participate in a hearing by telephone, such party must request permission from Chambers and notify counsel for the Debtors at least 48 hours prior to the scheduled hearing.
- B. If Chambers permits telephonic participation, the party participating telephonically must arrange such telephonic participation with Court Call and adhere to the Case Management Procedures for telephonic participation applicable in the Court as well as those required by Chambers.
- C. Those participating by phone may not use speakerphones, unless first authorized by the Court. Due to the technical limitations of the equipment and the way speakerphones disrupt proceedings in the courtroom, speakerphone authorizations usually will not be granted.
- D. Persons participating by phone (and especially by speakerphone) must put their phones on "mute" except when they need to be heard. Persons so participating are not to put their phones on "hold" under any circumstances.
- E. Persons interested in listening to any hearing may dial-in at any time and monitor the proceedings but will not be granted the opportunity to participate unless the procedures set forth in paragraphs A through D above are followed.

#### **V. Hearing Procedures**

- A. The initial hearing on all Pleadings will be a non-evidentiary hearing, unless: (1) the motion is of a type specified in Local Rule 9014-2(b), (c), (d), or (e), or (2) the Court otherwise directs in advance of the hearing. ~~If, upon or after the filing of a motion, any party wishes an evidentiary hearing on a motion not covered under Local Rule 9014-2, such party must confer with all other parties involved to determine whether there is agreement that an evidentiary hearing is appropriate. In the absence of an agreement, The Court will consider written requests for an evidentiary hearing in writing or by email. Notwithstanding Local Rule 9014-2, the Court may, upon advance request and for cause shown, order that the initial~~

hearing on a motion of the type specified in Local Rule 9014-2(c), (d), or (e) will be a non-evidentiary hearing. [SMB 11/30/12]

- B. Concurrently with any determination that an evidentiary hearing is necessary or desirable, Chambers must be notified with an estimate of expected trial time; parties may be informed that a different return date is necessary if the available time on the requested day is insufficient. Any motion noticed as an evidentiary hearing must prominently state, just below the return date in the upper right-hand corner, "Evidentiary Hearing Requested."
- C. Parties seeking a temporary restraining order ("TRO") must comply with the requirements of Fed. R. Civ. P. 65(b). Applications for TROs will be heard in open court, on the record, with a court reporter or audio recording. Parties wishing to be heard in opposition will be heard by telephone upon request to the extent it is unfeasible for such parties to appear in open court, and only under those circumstances shall telephonic appearances be allowed with Court approval. Applicants seeking TROs are reminded of the need to submit with their Pleadings the written affidavit required under Fed. R. Civ. P. 65(b) confirming the notice provided to anyone who might wish to oppose the application. Any assertions that notice cannot or should not be given must likewise be supported by affidavit.
- D. Any request for a TRO must be preceded by an email to Chambers, advising Chambers of: (a) the nature of the controversy; (b) the need for emergency relief; (c) why a noticed hearing for a preliminary injunction would be insufficient; (d) when a hearing on the TRO application is needed; and (e) when the papers will be forthcoming. Except in unusual circumstances where advance notice of the TRO application would vitiate the purpose of the TRO (and where that can be established by affidavit), immediate telephonic notice of the prospective application must be provided to all parties reasonably expected to be affected by entry of the TRO or provisions therein. In addition, the Documents in respect of any TRO application must be hand delivered, e-mailed or faxed to any such parties at the same time that such Documents are provided to Chambers.

## **VI. Discovery and Evidence**

- A. Parties are expected to work informally and cooperatively to effect any necessary discovery, with due recognition of the time exigencies that are typical in bankruptcy litigation. Document requests by letter, facsimile or email are authorized.
- B. ~~For the Chapter 11 Cases and any related adversary proceedings, no letter submissions regarding discovery will be accepted.~~ Parties are required in the first instance to resolve discovery and due diligence disputes by negotiation in good faith and, if necessary, advise the Court in writing or by email of the dispute without submitting formal papers. To the extent the dispute relates to a specific piece or form of discovery, such discovery requests or responses should be included in the written submission to the Court explaining the nature of the

dispute and the underlying documents submitted for the Court's consideration. Unless otherwise ordered by the Court, no motion with respect to a discovery or due diligence dispute may be filed unless the parties have **first conferred with the Court regarding the dispute, and the Court has not been able to resolve the dispute at the conference.** ~~first conferred in good faith to resolve it and also sought to resolve the matter by conference call with the Court.~~ [SMB 11/30/12]

**VII. Other Case Management Procedures**

- A. Nothing in the Procedures Order shall prejudice the rights of any party in interest to seek an amendment or waiver of the provisions of the Case Management Procedures upon a showing of good cause.
- B. The Debtors may seek to amend the Case Management Procedures from time to time throughout the Chapter 11 Cases with the consent of the Committee and shall present such amendments to the Court by notice of presentment in accordance with the Case Management Procedures.
- C. Within three (3) business days of entry of the Procedures Order, the Notice and Claims Agent shall serve a printed copy of the Procedures Order upon all parties on the Master Service List and post a copy of the Procedures Order on the Case Website.
- D. This Court shall retain jurisdiction to hear and determine all matters arising from or relating to the implementation of the Procedures Order.