|  |  |
| --- | --- |
| **UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK**  In re:  Debtor(s) | Chapter 11  Case Nos. \_\_\_\_\_\_\_\_\_( )  Through\_\_\_\_\_\_\_\_\_\_\_\_( )  (Jointly Administered) |

# ORDER ESTABLISHING DEADLINE FOR FILING PROOFS OF CLAIM AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF

Upon the application of the above-captioned debtors and debtors in possession (collectively, the “Debtors”), for an order, pursuant to Federal Rule of Bankruptcy Procedure (“Bankruptcy Rule”) 3003(c)(3), fixing a deadline (the “Bar Date”) and establishing procedures for filing proofs of claim and approving the form and manner of service thereof, and it appearing that the relief requested is in the best interests of the Debtors, their estates, and creditors and that adequate notice has been given and that no further notice is necessary; and after due deliberation and good and sufficient cause appearing therefor, it is hereby

**ORDERED**, that except as otherwise provided herein, all persons and entities, (including, without limitation, individuals, partnerships, corporations, joint ventures, trusts and governmental units) that assert a claim, as defined in Section 101(5) of the Bankruptcy Code, against the Debtors which arose on or prior to the filing of the Chapter11 petitions on [DATE] (the “Filing Date”), **[*Claims Agents approved for electronic filing of claims: Insert this statement:*** shall file a proof of claim electronically through the claims agent’s website] shall file a proof of such claim in writing or electronically on the Court’s website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov/) so that it is received on or before [DATE]; and it is further

[**ORDERED**, that notwithstanding any other provision hereof, proofs of claim filed by governmental units must be filed on or before [DATE] (the date that is one hundred eighty (180) days after the date of the order for relief); and it is further][[1]](#footnote-1)

**ORDERED**, that the following procedures for the filing of proofs of claim shall apply:

* 1. Proofs of claim must conform substantially to Official Bankruptcy Form No. 410;
  2. **[(1) *Cases with Claims Agents: Insert this Subparagraph*:]** Proofs of claim must be filed either **[*Claims Agents approved for electronic filing of claims: Insert this statement*:** electronically through the claims agent's website or**]** by mailing the original proof of claim either by U.S. Postal Service mail or overnight delivery [the original proof of claim to the United States Bankruptcy Court, Southern District of New York, c/o [address provided by Claims Agent] or by delivering the original proof of claim by hand to the United States Bankruptcy Court, Southern District of New York [**insert the address of the division of the court where the case is being administered**];

**[(2) *Cases Without Claims Agents: Insert this Subparagraph*:]** Attorneys (with full access accounts) and employees of institutional creditors (with limited access accounts) should file proofs of claim electronically on the Court’s Case Management/Electronic Case File (“CM/ECF”) system. Those without accounts with the CM/ECF system may electronically create and file proofs of claim through the “File A Proof of Claim” link on the Court’s website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov/) or by mailing or delivering the original proof of claim to the United States Bankruptcy Court, Southern District of New York [**insert the address of the division of the court where the case is being administered**];

* 1. Proofs of claim will be deemed filed only when received by the Clerk of the Bankruptcy Court on or before the Bar Date;
  2. Proofs of claim must (i) be signed; (ii) include supporting documentation (if voluminous, attach a summary) or an explanation as to why documentation is not available; (iii) be in the English language; and, (iv) be denominated in United States currency;
  3. **[In multiple debtor cases]** Proofs of claim must specify by name and case number the Debtor against which the claim is filed; if the holder asserts a claim against more than one Debtor or has claims against different Debtors, a separate proof of claim form must be filed with respect to each Debtor; and it is further

**ORDERED**, Proofs of Claim need not be filed as to the following types of claims:

1. Any claim as to which the holder has already filed a proof of claim against the Debtors in the above-captioned case in a form substantially similar to Official Bankruptcy Form No. 410 [so long as the claimant does not wish to assert such claim against a Debtor who was not named in the original claim, in which case another Proof of Claim must be filed]; (*add the bracketed clause if there is more than one Debtor).*
2. Any claim that is listed on the Schedules filed by the Debtors, provided that (i) the claim is not scheduled as “disputed”, “contingent” or “unliquidated”; and (ii) the claimant does not disagree with the amount, nature and priority of the claim as set forth in the Schedules; [and (iii) the claimant does not dispute that the claim is an obligation of the specific Debtor against which the claim is listed in the Schedules];
3. Any claim that heretofore has been allowed by Order of this Court;
4. Any claim that has been paid in full by any of the Debtors;
5. Any claim for which different specific deadlines have previously been fixed by this Court;
6. [Any claim by a Debtor against another Debtor, or any claim by any of the non- debtor subsidiaries of **[name of parent corporation]** having a claim against any of the Debtors];
7. Any claim allowable under § 503(b) and § 507(a) (2) of the Bankruptcy Code as an expense of administration of the Debtor’s estate, except as otherwise provided below;

**ORDERED,** **[For cases where a separate order has not been entered setting forth procedures for asserting claims/expenses under 11 U.S.C. § 503(b)(9)]** Claims under section 503(b)(9) must be filed by the deadlines set forth in this Order, and it is further;

**ORDERED**, that any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease, as to which the order authorizing such rejection is dated on or before the date of entry of this Order, must file a proof of claim based on such rejection on or before the Bar Date, and any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease, as to which an order authorizing such rejection is dated after the date of entry of this Order, must file a proof of claim on or before such date as the Court may fix in the applicable order authorizing such rejection; and it is further

**ORDERED**, that holders of equity interests in the Debtors need not file proofs of interest with respect to the ownership of such equity interest, provided, however, that if any such holder asserts a claim against the Debtors (including a claim relating to an equity interest or the purchase or sale of such equity interest), a proof of such claim must be filed on or prior to the Bar Date pursuant to the procedures set forth in this Order; and it is further

**ORDERED**, that if the Debtors amend or supplement the Schedules subsequent to the date hereof, the Debtors shall give notice of any amendment or supplement to the holders of claims affected thereby, and such holders shall be afforded thirty (30) days from the date of such notice to file proofs of claim in respect of their claims and shall be given notice of such deadline; and it is further

**ORDERED**, that nothing in this Order shall prejudice the right of the Debtors or any other party in interest to dispute or assert offsets or defenses to any claim reflected in the Schedules; and it is further

**ORDERED**, that pursuant to Bankruptcy Rule 3003(c)(2), all holders of claims that fail to comply with this Order by timely filing a proof of claim in appropriate form shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution; and it is further

**ORDERED**, that a copy of the notice substantially in the form annexed hereto is approved and shall be deemed adequate and sufficient if served by first-class mail at least thirty-five (35) days prior to the Bar Date on:

* 1. The United States Trustee;
  2. Counsel to each official committee;
  3. All persons or entities that have requested notice of the proceedings in the Chapter 11 cases;
  4. All persons or entities that have filed claims;
  5. All creditors and other known holders of claims as of the date of this Order, including all persons or entities listed in the Schedules as holding claims;
  6. All parties to executory contracts and unexpired leases of the Debtors;
  7. All parties to litigation with the Debtors;
  8. The Internal Revenue Service for the district in which the case is pending and, if required by Bankruptcy Rule 2002(j), the Securities and Exchange Commission and any other required governmental units (a list of such agencies is available from the Office of the Clerk of the Court); and
  9. Such additional persons and entities as deemed appropriate by the Debtors; and it is further

[**ORDERED**, that with regard to those holders of claims listed on the Schedules, the Debtors shall mail one or more proof of claim forms (as appropriate) substantially similar to the Proof of Claim form annexed to the application as Exhibit \_, indicating on the form how the Debtors have scheduled such creditor’s claim in the Schedules (including the identity of the Debtor, the amount of the claim and whether the claim has been scheduled as contingent, unliquidated or disputed);[[2]](#footnote-2) and it is further]

[**ORDERED**, that with regard to its current employees, the Debtors shall distribute notice of the Bar Date to such employees using a notice substantially similar to the form of notice annexed to the application as Exhibit , which notice is approved;[[3]](#footnote-3) and it is further]

[**ORDERED**, that pursuant to Bankruptcy Rule 2002(l), the Debtors shall publish notice of the Bar Date in substantially the form hereto as Exhibit [EXHIBIT] (the “Publication Notice”) once, in the [PUBLICATION] [and the [PUBLICATION] at least twenty-eight (28) days prior to the Bar Date, which publication is hereby approved and shall be deemed good, adequate and sufficient publication notice of the Bar Date;[[4]](#footnote-4) and it is further]

[**ORDERED**, that any person or entity who desires to rely on the Schedules will have the responsibility for determining that the claim is accurately listed in the Schedules;[[5]](#footnote-5) and it is further]

**ORDERED**, that the Debtors [and their Claims Agent] are authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate the terms of this Order; and it is further

**ORDERED**, that entry of this Order is without prejudice to the right of the Debtors to seek a further order of this Court fixing a date by which holders of claims or interests not subject to the Bar Date established herein must file such proofs of claim or interest or be barred from doing so.

Dated: , New York

, 20\_\_

UNITED STATES BANKRUPTCY JUDGE

1. For use only when the general Bar Date is less than 180 days after the Filing Date. Section 502(b)(9) of the Bankruptcy Code requires that governmental units have at least 180 days after the order for relief to file a proof of claim (however, a different deadline may apply for certain tax-related claims in a chapter 13 case). [↑](#footnote-ref-1)
2. For use only by Debtors that provide individualized proof of claim forms [↑](#footnote-ref-2)
3. For use only by Debtors that provide a special notice to current employees; the form of notice may state in substance that the Debtors have filed under chapter 11 and believe they have, by court order or otherwise, paid all prepetition employee obligations, but that if the employee believes that he or she has an unpaid claim for prepetition wages, salaries or commissions, including vacation, severance and sick leave pay, or contributions to employee benefit plans or other benefits, the employee must file such claims on or before the Bar Date. The notice must also provide information as to the form and manner of filing a claim or provide the employee with reasonable access to such information. [↑](#footnote-ref-3)
4. For Debtors that propose to publish notice of the Bar Date, see Guideline 5. [↑](#footnote-ref-4)
5. For use only by Debtors that do not provide individualized proof of claim forms. See footnote 3, above. [↑](#footnote-ref-5)