UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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In Re: :
                                                              :
Application for Exemption from the Electronic   :   General Order M-495
Public Access Fees by Sudha Mani and   :
Kersi D. Antia,   :
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       This matter is before the Court upon the application and request by Sudha Mani and Kersi D. Antia (the "Applicants") for exemption from the fees imposed by the Electronic Public Access Fee Schedule adopted by the Judicial Conference of the United States Courts.

       The Court finds, based upon the attached letter received from the Applicants dated on November 17, 2015, that the Applicants have demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information.
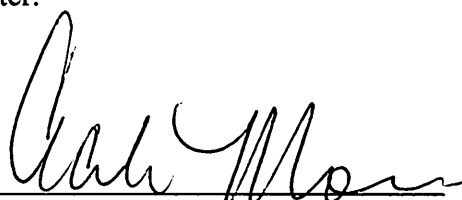
       Accordingly, the Applicants shall be exempt from the payment of fees for access via PACER to the electronic case files maintained in this Court to the extent such use is incurred in connection with the project described in the attached letter and application. The Applicants shall not be exempt from the payment of fees incurred in connection with other uses of the PACER system in this Court.

       Additionally, the following limitations apply:

1. This fee exemption applies only to the Applicants, and is valid only for the purposes stated above.
2. This fee exemption applies only to the electronic case files of this Court that are available through the PACER system;
3. By accepting this exemption, the Applicants agrees not to sell for profit any data obtained as a result of receiving this exemption.
4. This exemption is valid from November 17, 2015 through December 31, 2016.

       This exemption may be revoked at the discretion of the Court at any time. A copy of this Order shall be sent to the PACER Service Center.

Dated: New York, New York
      December 10, 2015

                          CECELIA G. MORRIS
                Chief United States Bankruptcy Judge

November 17, 2015

The Honorable Chief Judge Honorable Cecelia G.Morris
United States Bankruptcy Court Southern District of New York
One Bowling Green
New York, NY 10004-1408

Honorable Judge:

I am an assistant professor of business (professional sales) at William Paterson University, NJ. Together with my colleagues Professor Kersi Antia and doctoral student Vivek Astvansh at Western University in Canada, I am investigating how firms declaring bankruptcy may emerge from Chapter 11 bankruptcy proceedings as quickly and as unscathed as possible. The findings from this research have significant implications not only for the firms in question, but also for the recovery of the US economy at large. In 2013, more than 7,500 businesses filed for bankruptcy, seeking protection from creditors and the chance to re-organize their debts (www.UScourts.gov). A 2009 Center for Automotive Research study estimates 250,000 to 1.8 million jobs lost as a result of just the Chrysler and GM bankruptcies. By identifying the factors that promote or detract from a speedy and successful re-organization, our research will help reduce bankruptcy-related job losses.

Professor Antia and I started this research in 2010, our initial investigation included firms that had filed for bankruptcy between 2001 and 2005. We would now like to update the data to include bankruptcy filings from 2006 onward. We have identified 389 publicly traded firms that have filed for bankruptcy protection (Chapter 11) from 2006 to 2014 across the 42 jurisdictions participating in PACER. The rigorous conduct of our research requires us to download all petitions, motions, and orders with respect to each bankruptcy proceeding, along with creditor lists, and information on the rejection, assumption, or assignment of registered executory contracts. For each firm in our list, we anticipate tabulating and coding the following information: List of executory contracts with names of the contracting parties and the amount owed by the debtor-in-possession (DIP), nature of executory contracts (purchase agreements, supplier agreements, or customer purchasing agreement), DIP's decision to reject, assume, or assign executory contracts with cure amounts, timing of such decisions, and objections filed by the non-DIP firm.

The collection and coding of bankruptcy filings-related data is only one part of our research. A critical second component comprises the matching of the bankruptcy filings data with 10Q and 10K Earnings Reports for these firms from the Securities and Exchange Commission (SEC), so as to assess post-bankruptcy financial outcomes for the firms emerging from Chapter 11. Through our home universities, we have free access to the financial performance of the firms that emerge from bankruptcy.

A preliminary analysis of seven firms in our sample yields an average cost of collecting PACER data at just under $24 per firm, calculated as follows:
Cost of PACER @ $ 0.08 per page, with a maximum of $2.40 per document.
We expect approximately fifteen documents per bankrupt firm.
Six documents of four pages each @ $0.08 per page = $ 1.92
Nine documents of 30 or more pages each @ $2.40 per document = $ 21.60

We also anticipate hiring and training a graduate student to code the bankrupt firm's court documents, and expect to incur labor costs at $12 per hour. With an anticipated time spent of 3 hours per firm, the estimated cost of coding the collected data is $36 per firm.
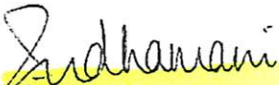
Based on our own reading of the PACER FAQs and the Electronic Public Access Fee Schedule issued in accordance with 28 U.S.C. § 1913, 1914, 1926, 1930, and 1932, it is our understanding that "…A court may, for good cause, exempt persons or classes of persons (individual researchers associated with educational institutions) from the electronic public access fees, in order to avoid unreasonable burdens and to promote public access to such information…The appropriate procedure by which a court may consider the grant of an exemption from the fee is upon motion by the party seeking exemption from the fee. The motion should demonstrate the basis upon which the party claims such exemption. The standards established by Congress are: to avoid unreasonable burdens and to promote public access to such information. A party must demonstrate that both standards have been met in order for a court to grant an exemption from payment of this fee."

As I'm sure you would appreciate, sir/madam, the research budgets we are provided at each of our state-funded institutions are woefully inadequate to meet the anticipated total cost of $23,340 (389 x $ 60) with access to PACER alone costing approximately 10,000 dollars, for the conduct of our proposed research. We have already applied for financial support from our own home institutions so as to help us defray the estimated coding-related costs. We ask that you grant us an exemption from payment of the PACER access fee as it applies to this jurisdiction, for a six-month period from December 1, 2015 to May 31, 2016. For your information, we have provided current curriculum vitae and a brief description of our proposed research.

We would like to emphasize that we seek no private gain whatsoever from our efforts. The findings from our research are to be published in academic journals and made available on the internet at no cost to the public. Your granting us an exemption from PACER Access Fees as they apply to cases in your jurisdiction would meet both the "unreasonable burden" and "promote public access" criteria established by Congress, and would go a long way to helping us realize our research objectives. For the convenience of the court my Pacer user id is– sm6635.

Our research team would be happy to answer any further questions you might have about our proposed research, and have provided our contact details below. We look forward to hearing back from you with respect to our petition.

Sincerely,

Dr. Sudha Mani
Assistant Professor of Professional Sales
Cotsakos College of Business
William Paterson University
1600 Valley Road, RBI
Wayne, NJ 07470
Ph: 973-920-3872
Email: manis1@wpunj.edu

Dr. Kersi D. Antia
Associate Professor of Marketing
Ivey Business School, Western University
1255 Western Road
London Ontario N6G 0N1
CANADA
Ph: 519-661-4179
Email: kantia@ivey.ca