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**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

| | |
|---|---|
| In re: | Case No. 17-29073 |
| VIDANGEL, INC., | Chapter 11 |
| Debtor. | Judge Kevin R. Anderson |

**THE DEBTOR'S SUPPLEMENTAL BRIEFING ON ITS OBJECTION TO THE STUDIOS' MOTION FOR STAY RELIEF**

VidAngel, Inc. (the "Debtor" or "VidAngel"), by and through its undersigned counsel, respectfully submits this supplemental briefing on its objection to the Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d), and Memorandum in Support [dkt. no. 69] (the "Motion") filed by Disney Enterprises, Inc., Lucasfilm Ltd. LLC, Twentieth Century Fox Film Corporation, Warner Bros. Entertainment Inc., MVL Film Finance LLC, New Line Productions, Inc., and Turner Entertainment Co. (together, the "Studios").[1]

[1] The Motion sought dismissal of the Debtor's Chapter 11 case, or in the alternative, relief from the automatic stay. The parties agreed at the last status conference that the only issue pending now is whether to lift the automatic stay.

## PRELIMINARY STATEMENT

The Debtor understands that the Studios' alleged copyright-infringement claim must be reduced to a sum certain eventually, whether by stipulation, estimation, or judgment. The Studios want to pursue a judgment now, which would require (i) lengthy written and deposition discovery, and (ii) an expensive jury trial in California with extensive percipient, expert, and documentary evidence. There is no need for this now, and the Debtor cannot afford the attendant expense and disruption without incurring irreparable damage to its profitable businesses.

Currently, the Debtor's business prospects are very promising. Consequently, the probability is high that the Debtor will emerge from chapter 11 timely and successfully. However, as will be explained with evidence at the hearing on this matter, the Debtor simply cannot now afford the high costs of

(i) preparing, proposing, confirming, and executing its reorganization plan,

(ii) supporting and promoting the growth of its original content businesses (described below),

(iii) obtaining a court's blessing of its incipient "streaming model" for providing family-friendly Hollywood films,

(iv) supporting Congresswoman Mia Love), her cosponsors, and www.ProtectFamilyRights.org as they move the Family Movie Act Clarification Act of 2018 (H.R. 6816, introduced September 13, 2018) through the process of becoming law, *and*

(v) litigating the Studios' claim with a jury trial in California.

The Debtor must prioritize its efforts, and it must do so as a fiduciary acting in the best interest of its estate and unsecured creditors. Clearly, its chapter 11 reorganization efforts must come first so it can propose a feasible plan. Of equal importance is growing its profitable businesses so it can pay its debts pursuant to that plan. Then, to the extent the Debtor can afford it, the Debtor's next priority is obtaining a court's blessing on its streaming model, or a clarification

of the law by Congress. The sooner it can prove the legal feasibility of its streaming model, the faster it can pay off its debts. Less important at this juncture, from the perspective of the Debtor's estate, is liquidating the Studios' claim to a sum certain. That claim relates to VidAngel's old disc-based model, which the Debtor has abandoned, and in which the Debtor has no continuing interest.

Viewed from VidAngel's position as a fiduciary debtor-in-possession, liquidating the Studios' claim is not a high priority, especially considering the expense and distraction of having a jury trial in California. But having to wait along with all of VidAngel's other stakeholders is not prejudicial to the Studios. The Studios cannot identify any reason why their claim cannot be (i) compromised in due course, (ii) adjudicated in connection with the Debtor's objection to the Studios' claim in this Court or the Utah federal district court, or (iii) estimated by this Court. All these options would be significantly less expensive and distracting for the Debtor than a jury trial in California, which would prejudice other creditors and stakeholders. Indeed, so long as the Debtor is on a profitable trajectory, the Studios (if they are motivated and acting purely as unsecured creditors) should oppose all increases to the Debtor's expenses and distractions.

On the other hand, if the Studios prevail with their request to have a jury trial now in California, then the Debtor's reorganization will be at grave risk.

## BACKGROUND

The Debtor is a leader in the underserved family-friendly entertainment business. Originally, its business model focused on selling DVDs (the "disc-based model"), which allowed customers to invoke their statutory privilege to filter profanity, violence, and gratuitous nudity from the Studios' Hollywood films. The Studios, however, won an injunction of the disc-based model in their copyright action against VidAngel in federal district court in California (the "California Action"). VidAngel complied with that injunction, abandoned its disc-based model, and spent millions of dollars devising its streaming model as an alternative mechanism for

delivering Hollywood films in a filterable form over the internet. The Debtor asked Judge Nuffer to bless the streaming model as a matter of copyright law, but he dismissed their case for lack of personal jurisdiction.

In the meantime, the Debtor's "original content" business has gained traction and taken off. Its original content business currently includes two parts: (i) original series that are crowd-funded ("VidAngel Studios"), and (ii) the "Dry Bar Comedy" franchise, which includes: (a) live tapings of comedy routines in Provo, Utah, (b) content on VidAngel, SiriusXM, YouTube, and Facebook, and (c) www.drybarcomedy.com, a website where subscribers can choose from a smorgasbord of family-friendly video comedy skits and routines.

The Dry Bar Comedy franchise has already proven a high probability of financial success – the Debtor's revenues from that franchise have increased 4,000% in the past six months, accumulating more than a billion minutes viewed. Dry Bar Comedy begins its first live national tour later this fall. Similarly, one VidAngel Studios production, "The Chosen," has already raised $4.5 million (from 6,130 crowd-fund investors), and is in pre-production. The Debtor's original content businesses are proving to be remarkably successful.

The Studios filed their lift-stay Motion on November 8, 2017, asking this Court to dismiss the Debtor's bankruptcy petition or, in the alternative, to lift the automatic stay as to the California Action. At the hearing on December 7, 2017, this Court continued the hearing on the Motion without a date. At the time, the parties were awaiting Judge Nuffer's decision on the legality of its streaming model. Also at that time, that streaming model was the Debtor's best hope for financial success. Since then, Judge Nuffer has dismissed the Debtor's case. But also since then, Congresswoman Mia Love has introduced H.R. 6816, and the Debtor's original content business

has emerged as a viable successor to its streaming model as the vehicle that will fund the Debtor's successful reorganization.[2]

## SUMMARY OF OBJECTION

The Debtor cannot now afford the expense of liquidating the Studio's claim by litigating through a jury trial in California. It projects that it cannot afford to do until late next year. It *might* be able to afford the expense of resolving the Studios' claim sooner, but only if that claim is stipulated to (following a mediation, perhaps), decided by the federal district court in Utah, or estimated by this Court. In these circumstances, the Studios' Motion fails entirely under the legal standards that apply in the Tenth Circuit.

## ARGUMENT

### I. THE COURT SHOULD NOT GRANT THE STUDIOS RELIEF FROM THE AUTOMATIC STAY

The Studios ask this Court to lift the automatic stay, asserting bad faith and invoking the "*Curtis* factors." But VidAngel filed its petition in good faith in order to obtain the breathing space of the automatic stay so it could focus on two major issues: (i) the legal viability of its streaming model (which is not at issue in the California Action), and (ii) reorganizing its businesses to achieve and sustain profitability (which also is not at issue in the California Action). "The principal purpose of the Bankruptcy Code is to grant a fresh start to the honest but unfortunate debtor." *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 367 (2007) (citation and internal quotation marks omitted). Indeed, the "purpose of Chapter 11 reorganization is to assist financially distressed business enterprises by providing them with breathing space in which to return to a viable state." *In re Little Creek Dev. Co.*, 779 F.2d 1068, 1073 (5th Cir. 1986) (citations omitted).

[2] The Studios will likely focus on Neal Harmon's July 5, 2018 declaration in the district court for the district of Utah in which he testified that VidAngel was approaching financial extremis. It was. But its fortunes have reversed dramatically since then.

To that end, the automatic stay "gives the honest debtor an opportunity to protect his assets for a period of time so that the resources might be marshalled to satisfy outstanding obligations." *In re Laguna Assocs.*, 30 F.3d 734, 737 (6th Cir. 1994) (citation omitted).

VidAngel has used the breathing space *exactly* as the Bankruptcy Code intends, to marshal its resources, reduce its expenses, and focus on profitability in an effort to satisfy its obligations. It needs more of that space before it can afford a jury trial in California.

**A. The *Curtis* Factors Weigh in Favor of Maintaining the Stay.**

To determine whether to lift a stay, the Tenth Circuit follows the *Curtis* factors – a multi-factor analysis without a single dipositive factor. 40 B.R. 795, 799-800 (Bankr. D. Utah 1984). What constitutes "cause" to "terminate, annul, modify, or condition" the automatic stay varies in each case. 11 U.S.C. § 362(d)(1). *Curtis* articulated a 12-factor test:

> (1) whether relief would result in a partial or complete resolution of the issues;
>
> (2) lack of any connection with or interference with the bankruptcy case;
>
> (3) whether the other proceeding involves the debtor as a fiduciary;
>
> (4) whether a specialized tribunal with the necessary expertise has been established to hear the cause of action;
>
> (5) whether the debtor's insurer has assumed full responsibility for defending it;
>
> (6) whether the action primarily involves third parties;
>
> (7) whether litigation in another forum would prejudice the interests of other creditors;
>
> (8) whether the judgment claim arising from the other action is subject to equitable subordination;
>
> (9) whether movant's success in the other proceeding would result in a judicial lien avoidable by the debtor;

> (10) the interests of judicial economy and the expeditious and economical resolution of litigation;
>
> (11) whether the parties are ready for trial in the other proceeding; and
>
> (12) impact of the stay on the parties and the balance of harms.

*Id.* at 799-800.

Each *Curtis* factor is determined and weighed by the court. Of the 12 *Curtis* factors, 8 are applicable here. They all favor denying the Studios' Motion and maintaining the stay.

**1. Whether relief would result in a partial or complete resolution of the issues.**

The Debtor's case is a chapter 11 reorganization. The key issues in its case are: (i) reorganizing and growing its profitable businesses so it can perform under a feasible reorganization plan, and (ii) building up its resources so it can afford to litigate the legal viability of its new streaming model. Neither of these is at issue in the California Action, which only relates to VidAngel's old disc-based model, which the Debtor has abandoned and which, consequently, has nothing to do with the Debtor's business going forward. This factor weighs in favor of maintaining the stay because – although lifting the stay would set the exact amount of the Studios' claim – it would do so in the most expensive and disruptive way possible, which would endanger the bottom-line purpose of the Debtor's reorganization case; that is, the "fresh start" that Congress has made available for an "honest but unfortunate debtor."

**2. Lack of any connection with or interference with the bankruptcy case.**

The expense and distraction of a jury trial in California would interfere <u>*substantially*</u> with the Debtor's reorganization. The only connection between the Debtor's reorganization and the California Action is the amount of the Studios' alleged claim. This connection is insufficient to justify that interference. "Congress contemplated that relief from the stay may be appropriate to

permit state court adjudication of such matters as divorce, child custody and probate proceedings where such matters bear no relation to the bankruptcy case." *Id.* at 804–05. This factor supports maintaining the stay.

**3. Specialized tribunal.**

There is no specialized tribunal for determining damages in a copyright infringement case. *Compare Matter of Gary Aircraft Corp.*, 698 F.2d 775, 784 (5th Cir.1983) (bankruptcy court should defer liquidation of a government contracting dispute to the Board of Contract Appeals); *In re Terry*, 12 B.R. 578, 582–83 (Bankr. E.D. Wis. 1981) (vacating automatic stay to permit state patient compensation panel to adjudicate "wrongful life" malpractice claim against the debtor); *Thompson v. Magnolia Petroleum Co.*, 309 U.S. 478, 483, 60 S. Ct. 628, 630, 84 L. Ed. 876 (1940) (unsettled questions of state property law may be submitted to state courts). The fact that a federal judge in California is familiar with the injunction he issued does not qualify his court as a "specialized tribunal." Any federal district court in the land can determine damages in a copyright case. In any event, the California judge's familiarity with an injunction does not justify the expense and distraction to the Debtor of a jury trial in his court in California at this time. This factor also supports maintaining the stay.

**4. Insurance coverage.**

This factor weighs in favor of maintaining a stay unless an insurer has fully covered any loss and costs of defense that the debtor's estate might incur. For example, when the debtor's estate would not be damaged by the continuation of the non-bankruptcy litigation, such as a director and officer liability claim co-defended by the debtor, when directors and officers have priority under the policy. *See In re Curtis*, 40 B.R. at 800; *Matter of Holtkamp*, 669 F.2d 505, 508–09 (7th Cir.1982). The Debtor has no such coverage, and all expenses of litigating the claim

will come directly from the estate as priority administrative expenses to the detriment of all other creditors. This factors also supports maintaining the stay.

**5. Action primarily involving third parties.**

This factor would support relief from the stay only if the Debtor and its estate will not be the primary bearer of a loss, or are merely ancillary or nominal parties to the non-bankruptcy litigation. Here, of course, there are no third parties to bear any loss or share defense costs, and the Debtor is the only defendant in the California Action. This factor also weighs in favor of maintaining the stay.

**6. Judicial economy/expeditious resolution.**

This factor would weigh in favor of granting relief from the automatic stay only if relief would result in a greater efficiency. *In re Curtis*, 40 B.R. at 798 ("The automatic stay is intended 'to prevent a chaotic and uncontrolled scramble for the debtor's assets in a variety of uncoordinated proceedings in different courts. The stay insures that the debtor's affairs will be centralized, initially, in a single forum in order to prevent conflicting judgments from different courts and in order to harmonize all of the creditors' interests with one another.'").

The Debtor is confident it can file a confirmable reorganization plan without knowing the exact amount of the Studios' claim. However, if not having that information would "unduly delay the administration of the estate," then the most efficient resolution would be for this Court to estimate the Studios' claim under 11 U.S.C. § 502(c). Regardless, the *least* efficient approach would be to require the Debtor at this time to gear up and pay for a jury trial in California, including possibly paying for the Studios' attorney's fees in that trial. And pursuing the least efficient approach, of course, would also prejudice the interests of other creditors and stakeholders. This factor thus also weighs in favor of maintaining the stay.

**7. Whether the parties are ready for trial in the other proceeding.**

This factor weighs in favor of maintaining the automatic stay because the California Action is not even close to being ready for trial. This factor is typically *very heavily weighted* among the other *Curtis* factors as it goes to the heart of judicial economy and sets a fairly bright line for favoring granting relief for advanced litigations that are *trial ready* and simply need to be completed in the non-bankruptcy tribunal. *See In re Sonnax Indus., Inc.*, 907 F.2d 1280, 1286 (2d Cir. 1990) (quoting *In re Curtis*, 40 B.R. at 798.) Here, the California Action is not ready for trial; indeed, there has been virtually no fact discovery and no expert discovery. Consequently, this factor weighs *very heavily* in favor of maintaining the stay.

**8. Impact of the stay on the parties.**

This factor also weighs in favor of maintaining the stay. The impact on the Debtor of lifting the stay now – at a time when it cannot afford to reorganize *and* sustain a legal campaign that includes a jury trial in California – would be disastrous. There is no such impact on the Studios in maintaining the stay.

**B. Likelihood of Success Is Not a Dispositive Factor for Lifting the Stay.**

Although "likelihood of success on the merits" is not one of the enumerated, non-exclusive *Curtis* factors, it may be considered in conjunction with them. *See In re Dampier*, No. BAP CO-15-006, 2015 WL 6756446, at *5 (10th Cir. BAP (Colo.) Nov. 5, 2015) ("In this case, the bankruptcy court carefully evaluated the Creditors' Motion for Stay Relief in light of the *Curtis* Factors, as well as the likelihood of success factor emphasized by the Tenth Circuit in *In re Gindi*, 642 F.3d 865, 872 (10th Cir. 2011).

The Studios claim that likelihood of success is a dispositive factor for lifting the stay. Although *Gindi's* language does support that, decisions following *Gindi* have not embraced that reading. In *In re Hruby*, 512 B.R. 262, 270–71 (Bankr. D. Colo. 2014), the court explained—

> A literal reading of *Gindi's* language—that relief should have been granted *only if* the movant had made a showing of a likelihood of success—suggests, in cases of this type, a finding that the movant has shown it is likely to succeed in the underlying litigation is a condition precedent to lifting the stay. That kind of literal reading would go too far. Certainly, a literal reading of *Gindi's* statement that the movant must make that showing cannot have been the *Gindi* court's intent . . . . Likelihood of success on the merits is irrelevant in many cases where relief has only an incidental impact on the debtor. . . . For a bankruptcy court to delve into the likelihood of success on the merits in cases where—win or lose—there can be no substantive impact on the debtor would constitute an unnecessary intrusion into the province of the court where the merits of the dispute will ultimately be decided.

Put another way, if Congress had meant for the automatic stay of section 362(a) to operate as a "stay of all litigation, except for meritorious litigation," it could easily have said so, but it did not. Further, such a reading would turn the Bankruptcy Court into a referee of which litigation is meritorious and which is not. Finally, and in any event, the "likelihood of success on the merits" analysis is really non-sensical in the context of a jury trial that would be mostly about damages.

### C. The "First to File" Rule.

This Court asked the parties to brief the "first to file" rule. This rule is a principle of civil procedure that provides that when two suits are brought by the same parties, regarding the same issues, in two courts of proper jurisdiction, the court that first acquires jurisdiction usually retains the suit, to the exclusion of the other court. The first to file rule serves to address the exercise of concurrent jurisdiction among the federal district courts that can create inefficiency, duplicative litigation and conflicting decisions. *See In re Com21, Inc.*, 357 B.R. 802, 807 (Bankr. N.D. Cal. 2006). Thus, it is a rule related to determining venue where two equally competent federal district courts, not where, as here, the Bankruptcy Court has statutory jurisdiction over the chapter 11 case (28 U.S.C. § 1334(a)), and according to another controlling statute (28 U.S.C. § 1334(b)), the district court where the bankruptcy case is pending has original jurisdiction over all cases over "all

civil proceedings arising under title 11, or arising in or related to cases under title 11." The first to file rule allows a district court to transfer, stay, or dismiss an action when a similar complaint has already been filed in another district court. *See Lipari v. U.S. Bancorp NA*, 345 F. App'x 315, 317 (10th Cir. 2009). The decision to defer to another federal court based on the first to file rule is discretionary, although the rule should not be disregarded lightly. *In re Com21, Inc.* at 807.

The first to file rule has no application here. This Court's impending decision is not about deferring to the court in California. Rather, this Court's decision is whether or not lifting the automatic stay is in the best interest of the Debtor, its estate, and its creditors. Because it is not, this Court should not lift the stay. This does not implicate the first to file rule.

**D. Abstention.**

This Court asked the parties to brief abstention also. Bankruptcy courts are subject to both mandatory and permissive abstention doctrines. Mandatory abstention is warranted where an action was commenced pre-bankruptcy in state court based upon a state law claim and the action can be timely adjudicated in state court. 28 U.S.C § 1334(c)(2); *see In re Lorax Corp., 295 B.R. 83, 90 (Bankr. N.D. Tex. 2003).* In addition to mandatory abstention, bankruptcy courts *may* abstain from hearing a proceeding arising under the Code or arising in or related to a case under the Code if such abstention is in the interest of justice, comity with state courts, or respect for state law. 28 U.S.C. § 1334(c)(1). Permissive abstention has been extended beyond state law claims in highly specialized issues in federal courts. *See, e.g.*, *Asbestosis Claimants v. Apex Oil Co. (In re Apex Oil Co.),* 980 F.2d 1150 (8th Cir. 1992) (court abstained in favor of a Federal district court multi-district action involving Jones Act and maritime claims); *Plum Run Serv. Corp. v. United States Dep't of the Navy (In re Plum Run Serv. Corp.),* 167 B.R. 460, 464-65 (Bankr. S.D. Ohio 1994) (abstention in favor of Armed Services Board of Contract Appeals); *In re Kalvar Microfilm,*

*Inc.*, 208 B.R. 819 (Bankr. D. Del. 1997) (abstaining from hearing tariff drawback dispute in favor of Customs Service).

Abstention has no application here. Again, this Court's impending decision is not about deferring to the court in California or attempting to adjudicate a claim under copyright law. Rather, it is about timing and whether continuing the automatic stay will benefit the Debtor, its estate, and creditors. Because it will, this Court should not lift the stay. That does not implicate the abstention doctrine.

**E. The Studios' Requested Relief is Overbroad.**

The Studios' "relief requested" is far too broad. They request "relief from the automatic stay in order to conclude the California Action." (Dkt 69, p. 23 of 25.) That will inexorably lead to further litigation regarding the scope of the California court's injunction. That is unnecessary. There is no reason whatsoever for the California Action to proceed on any issue that is not necessary for the reduction of the Studios' claim to a sum certain. And there is no reason to do even that at this time.

**F. If Necessary, this Court Can Estimate the Studios' Claim.**

As noted above, the Debtor is confident it can file a confirmable reorganization plan without knowing the exact amount of the Studios' claim. However, if not having that information would "unduly delay the administration of the estate," then the most efficient resolution would be for this Court to estimate the Studios' claim under 11 U.S.C. § 502(c).

*In re Choice ATM Enterprises, Inc.*, No. 14-44982-DML, 2015 WL 1014617 (Bankr. N.D. Tex. Mar. 4, 2015) is instructive. In that case, the debtor owned and operated ATMs. It allegedly owed its largest single creditor $3 million in commissions, and it had filed an action in federal court seeking declaratory judgment to ascertain that debt. The debtor then filed bankruptcy on the eve of trial, and the creditor then filed its lift-stay motion.

In its unpublished decision, the bankruptcy court carefully surveyed the law on stay relief for pending ancillary actions, including the *Curtis* factors, the *Johnson* factors, and hybrid approaches. Ultimately, it focused on

> whether: (1) judicial economy is better achieved through continuing the litigation in district court or estimating the claims in bankruptcy court, (2) either forum avoids unnecessary expense and delay, (3) the claim is critical to the success or failure of the reorganization, and (4) the nature of the claim requires expertise beyond the abilities of the bankruptcy court.

*Id.*

First, with respect to judicial economy, the bankruptcy court noted:

> "The Bankruptcy Code and Rules implement a speedy, efficient and economical method for the determination and allowance of claims." *Curtis*, 40 B.R. at 801 and n.7 (referring to Code section 502(c)). The Supreme Court "has long recognized that a chief purpose of the bankruptcy laws is `to secure a prompt and effectual administration and settlement of the estate of all bankrupts within a limited period.'" *Katchen v. Landy*, 382 U.S. 323, 328-29 (1966) (citing *Ex parte Christy*, 44 U.S. 292, 312 (1845) and discussing Congress's intent to expedite the determination of claims in bankruptcy).

*Id.* Second, with respect to unnecessary expense and delay, the bankruptcy court noted:

> The costs to continue the [federal court case] would be a greater burden on the estate than to estimate the claims through the bankruptcy court. [The debtor] alleges that to litigate [the federal court case] would require a significant and costly time commitment from officers of [the debtor] to prepare for, attend and testify at trial.

*Id.* Third, the bankruptcy court found that the creditor's claim was critical to the reorganization because it could prove to be the largest claim against the debtor's estate. *Id.* Finally, regarding the bankruptcy court's expertise, the court wrote:

> This court is the proper venue to estimate the [creditor's claim] under section 502(c) of the Code. *See Addison v. Langston, (In re Brints Cotton Mktg., Inc.)*, 737 F.2d 1338, 1340-41 (5th Cir.1984) ("In enacting the Bankruptcy Code of 1978, Congress intended that all claims, including unliquidated and contingent claims, be `dealt with' in the bankruptcy proceeding," citing S. REP. No. 95-989, at 65 (1978), reprinted in 1978 U.S.C.C.A.N. 5758, 5808).

*Id.*

The facts in *In re Choice* are reminiscent of those before this Court. There, a significant claim needed to be liquidated. There, that court identified and ruled in favor of the most efficient, least expensive, and least disruptive method available to do so. This Court should do the same.

## II. RELIEF REQUESTED

This Court should deny the Studios' renewed lift-stay Motion without prejudice and instruct the Studios to work with the Debtor to find a more efficient, less expensive, and less disruptive way to determine the Studios' claim.

Dated this 14th day of September, 2018.

/s/ *J. Thomas Beckett*
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**PROOF OF SERVICE**

I hereby certify that on September 14, 2018, I caused a true and correct copy of the foregoing **THE DEBTOR'S SUPPLEMENTAL BRIEFING ON ITS OBJECTION TO THE STUDIOS' MOTION FOR STAY RELIEF** to be served as follows:

On September 14, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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Dated September 14, 2018.

**PARSONS BEHLE & LATIMER**

By: /s/ *J. Thomas Beckett*