Sandford L. Frey (SBN 117058)
LEECH TISHMAN FUSCALDO & LAMPL, INC.
US Bank Tower
633 West Fifth Street, 48th Floor,
Los Angeles, California 90071
Telephone: 213.246.4970; Facsimile: 213.640.4002
E-mail: *sfrey@leechtishman.com*

Crystal H. Thornton-Illar (Admitted Pro Hac Vice)
LEECH TISHMAN FUSCALDO & LAMPL, LLC
525 William Penn Place, 28th Floor
Pittsburgh, Pennsylvania 15219
Telephone: 412.261.1600; Facsimile: 412.227.5551
E-mail: *cthorton-illar@leechtishman.com*

Reorganization Attorneys for
Red Booth, Inc.

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

[LOS ANGELES DIVISION]

In re **RED BOOTH, INC.,** Debtor and Debtor-In-Possession.	CASE NO.: 2:17-bk-22975-ER Chapter 11 **NOTICE OF MOTION AND MOTION OF DEBTOR FOR ORDER EXTENDING DEBTOR'S EXCLUSIVE PERIOD TO SOLICIT AND OBTAIN ACCEPTANCES OF ITS PLAN OF REORGANIZATION AND THE COURT'S DEADLINE TO CONFIRM A PLAN;** **DECLARATION OF RATTAN JOEA IN SUPPORT THEREOF** ***[No Hearing Required Absent Timely Objection]***

TO THE HONORABLE ERNEST M. ROBLES, UNITED STATES BANKRUPTCY JUDGE; THE OFFICE OF THE UNITED STATES TRUSTEE; PARTIES IN INTEREST; AND PARTIES REQUESTING SPECIAL NOTICE:

///

///

PLEASE TAKE NOTICE that pursuant to Title 11, United State Code ("Bankruptcy Code") Section 1121 and Rules 9013-1 and 9013-1(o)(1) of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California ("LBR"), Red Booth, Inc., Debtor and Debtor in Possession ("Debtor") will and does hereby move this Court for an order extending the exclusive period in which only the Debtor may solicit acceptance of a plan of reorganization ("Solicitation Exclusivity Period") and the Court's deadline to confirm a plan. The current 180-day Solicitation Exclusivity Period is through April 21, 2018 ("Initial Solicitation Deadline"). The Court initially set January 26, 2018 as the deadline to file the disclosure statement and plan and March 7, 2018 as the deadline to confirm a plan pursuant to order entered on December 13, 2017 *[Docket No. 30]*, which order was subsequently modified by order entered on February 8, 2018 *[Docket No. 68]* ("Plan Deadline").

By this Motion, for purposes of maintaining the Debtor's exclusive right to file its plan, the Debtor requests an extension of the Solicitation Exclusivity Period in which only the Debtor may solicit acceptance of a plan from the Initial Solicitation Deadline through and including **July 23, 2018,** without prejudice to further extensions. The Debtor believes cause exists for the requested extension as set forth in the Motion.

PLEASE TAKE FURTHER NOTICE that the Motion is based upon Bankruptcy Code § 1121, this Notice of Motion and Motion, the attached Memorandum of Points and Authorities and declaration, the pleadings and papers on file in this bankruptcy case, the arguments of counsel, and any other admissible evidence properly brought before the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to LBR 9013-1(f) and 9013-1(o)(1), any interested party who wishes to respond to, or oppose, the relief requested in the Motion must file a written response and request for hearing stating the reasons for the opposition to the Motion ("Opposition") with the Clerk of the Bankruptcy Court, located at United States Bankruptcy Court, Edward R. Roybal Federal Building and U.S. Courthouse, 255 E. Temple Street, Los Angeles, California, 90012; and, if such opposition is filed electronically, it must be accompanied by a copy of the NEF confirming the filing, and serve upon the (a) the United States Trustee located at 915 Wilshire Blvd, Suite 1850, Los Angeles, California 90017; and (b) counsel for the Debtor at the address set forth in the upper-left corner of the first page of this Notice. Said Opposition must be filed and served, as indicated above, within 14 days of service of this Notice. In addition, the Opposition must include all reasons in opposition, declarations and copies of all evidence on which the responding party intends to rely, any responding memorandum of points and authorities, and a request for a hearing. Unless a hearing is requested, no hearing shall be had.

PLEASE TAKE FURTHER NOTICE that pursuant to LBR 9013-1(h), failure to file and serve a response or opposition to the relief requested may be deemed by the Court to be consent to the relief requested in the Motion.

WHEREFORE, the Debtor hereby moves the Court to enter an Order pursuant to Bankruptcy Code § 1121(d) approving the Motion, for purposes of maintaining the Debtor's exclusive right to file a plan, extending the Solicitation Exclusivity Period as set forth above, and granting such other and further relief as is just and proper.

DATED: March 22, 2018 LEECH TISHMAN FUSCALDO & LAMPL, INC.

By: /s/ Sandford L. Frey
SANDFORD L. FREY
Reoganization Atorneys for Red Booth, Inc.
Debtor and Debtor in Possession,

I.

INTRODUCTION

On October 23, 2017, ("Petition Date"), the Debtor[1] commenced its bankruptcy case by filing in this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which is pending in this Court ("Red Booth Bankruptcy Case"). On the Petition Date, Rideshare Port Management, LLC ("Rideshare" and collectively with Debtor, the "Debtors") also commenced a bankruptcy case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code, which is pending in this Court at Bankruptcy Case number 2:17-bk-22974-ER. ("Rideshare Bankruptcy Case" and together with the Rideshare Bankruptcy Case, the "Cases").

On February 9, 2018, the Debtors filed their *Plan of Reorganization Proposed Jointly by Debtors, Rideshare Port Management, LLC and Red Booth, Inc. [Docket No. 70]* ("Plan") and their *Joint Disclosure Statement Describing Joint Plan of Reorganization Proposed by Debtors, Rideshare Port Management, LLC and Red Booth, Inc. [Docket No. 69]* ("Disclosure Statement"). The hearing to consider approval of the Disclosure Statement is currently scheduled for April 5, 2018 ("Disclosure Statement Hearing").

Cause exists for the requested extensions. Since the filing of the Plan, the Debtors have made progress with two separate counsel representing two groups of State Court Plaintiffs toward a consensual resolution of the claims and the Plan. The Debtors wish to continue this progress, so as to have a fair and reasonable opportunity to reach a consensus. Thus, this extension is not being sought to cause delay or to pressure creditors. Quite to the contrary, it will expedite the reorganization process by giving the Debtors, creditors, non-debtor plan funders and equity holders a fair and reasonable opportunity to reach a consensual plan. Toward that goal, an extension will foster negotiations by permitting those parties negotiating in good faith to be free of distractions from dissident creditors to the detriment of the estates and those creditors making good faith efforts to reach a consensus.

///

[1] Capitalized terms shall have the meaning ascribed to them in the Notice of Motion, unless defined otherwise in the Motion or a different meaning is clearly ascertainable from the context of the sentence.

To that end, the Debtor is currently considering offers to resolve such claims, as well as avoid potential objections to confirmation, from these two groups, which resolution will require a few modifications to the Plan Trust provided for as part of the Plan. In that regard, the Debtors have deferred submitting certain exhibits pertaining to the claims resolution process and financial exhibits to the Disclosure Statement. Among other reasons, filing such exhibits at this juncture may be counterproductive to the negotiations and resolution. In addition, should the proposed resolution with these two groups come to fruition, the Debtors and negotiating claimants will need additional time to review and conform the exhibits. In furtherance, the Debtors' are in the process of retaining a financial consultant, Special Services, to review the Debtors financial information, so as to assist in resolution for a consensual plan with such claimants. The Debtors intend to file applications to employ Special Services shortly. Therefore, it is likely that a continuance of the Disclosure Statement Hearing will become necessary.

In order to continue the reorganization progress, this Motion seeks an order extending the Plan Deadline, and the Solicitation Exclusivity Period during which only the Debtor may solicit acceptance of its Plan from the Initial Solicitation Deadline through **July 23, 2018**, without prejudice to seeking further extensions.

This is the Debtors' first request for an extension, and they are only seeking extensions of the Plan Deadline and Solicitation Exclusivity Period. As stated, the Debtors are not seeking this extension to pressure creditor, freeze out competing plans or to protect and entrenched management. To the contrary, cause exists for the requested extensions in order to avoid the risk of these Cases deteriorating into a state of confusion and chaos at a critical juncture, at a time when it is unequivocally in the best interest of creditors and the estates, that the Debtors focus their efforts attempting to reach a consensus or at least narrowing the disputed issues. In other words, the Motion seeks to afford sufficient time for the parties to continue to negotiate toward a consensual resolution of the Cases, if possible.

///

///

///

A. Background.

On October 23, 2017, ("Petition Date"), the Debtor commenced its bankruptcy case by filing in this Court a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor continues to operate its business and manage its property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An official committee of creditors holding unsecured claims has not been formed. The Court has core jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157(b)(2)(A), (D), (K) and (M).

B. The Debtor's Business and Events Leading to the Filing of Chapter 11

Red Booth has been in the business of providing curbside support at the LAX airport since 2016. Red Booth does not hold any contracts, licenses, or permits itself but provides curbside service to Red Vans, a company that is a party to a non-exclusive agreement with the City of Los Angeles to operate a shared ride service at LAX.

Red Booth has been named as a defendant in several proceedings claiming that it is an allegedly related or affiliated company to the Rideshare.. These cases did not involve Red Booth directly, but the it was forced to defend resulting in legal fees. Additionally, the recent introduction and popularity of such services as Uber and Lyft have decreased the number of Red Vans passenger pick-up reservations and correspondingly the Red Booth Debtor's revenue. After careful consideration, Red Booth elected to file for Chapter 11.

II.

ARGUMENT

A. The Court May Extend the Debtor's Exclusive Period for Obtaining Acceptances of Its Plan

When drafting the Bankruptcy Code, Congress intentionally provided chapter 11 debtors with a period during which they alone could propose and obtain acceptances for a plan of reorganization:

> Proposed chapter 11 recognizes the need for the debtor to remain in control to some degree, or else debtors will avoid the reorganization provisions in the bill until it would be too late for them to be an effective remedy. . . . The bill gives the debtor an exclusive right to propose a plan for 120 days. In most cases, 120 days will give the

> debtor adequate time to negotiate a settlement, without unduly delaying creditors. The court is given the power, though, to increase or reduce the 120-day period depending on the circumstances of the case . . . . [The bill allows the flexibility for individual cases that is unavailable today.

House Report at 231-32 (emphasis added) (footnotes omitted).

Understanding that the initial periods set forth in Bankruptcy Code §§ 1121(b) and (c) would not always be sufficient to provide a debtor with the time necessary to obtain confirmation of a debtor's plan, Congress enacted Bankruptcy Code § 1121(d) to provide for an extension of the exclusivity period for "cause." Bankruptcy Code § 1121(d) provides:

> Subject to paragraph (2), on request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.

11 U.S.C. § 1121(d).

The legislative history indicates that the term "cause" is to be viewed flexibly in order to allow a debtor to reach an agreement. *House Report* at 231 (1978); *In re McLean Industries, Inc.*, 87 B.R. 830, 833 (Bankr. S.D.N.Y. 1987).

B. Cause Exists to Lengthen the Debtor's Exclusive Periods to Obtain Acceptances of Its Plan

The Court has the authority to extend the exclusivity period in which to solicit acceptances "for cause". The Bankruptcy Code does not define "cause" or establish formal criteria for an extension of the exclusivity period. The legislative history indicates that it is to be viewed flexibly in order to allow the debtor to reach an agreement with creditors and other parties in interest. *See*, *In re Public Serv. Co. of New Hampshire*, 88 B.R. 521, 534 (Bankr. D.N.H. 1988). ("[T]he legislative . . . [is] to promote maximum flexibility") (internal citations omitted); *In re McLean,* supra, at 833, citing H.R. Rep. No. 95-595, at 231, reprinted in 1978 U.S.C.C.A.N. 5963, 6191.

Consistent with a balanced, integrated approach to reorganizations under chapter 11, Congress contemplated that bankruptcy courts would apply the flexibility to the exclusivity provisions so as to promote the orderly, consensual, and successful reorganization of a debtor's affairs. *See*, *House Report* at 232. In accordance with congressional intent, a debtor should be given a reasonable and exclusive opportunity to negotiate an acceptable plan with creditors and to prepare adequate financial and non-financial information concerning the ramifications of any proposed plan for disclosure to creditors. *See*, e.g. *In re McLean*, supra at 835; and, *In re Texaco, Inc.*, 76 B.R. 322, 327 (Bankr. S.D.N.Y. 1987).

As a result, the decision to grant a debtor's request to extend the exclusive periods lies within the sound discretion of the bankruptcy judge. *See*, *In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409 (E.D.N.Y. 1989). The determination as to an extension of exclusivity should balance creditor and debtor interests in favor of reorganization. *In re Pine Run Trust, Inc.*, 67 B.R. 432, 434 (Bankr. E.D. Pa. 1986).

In determining whether cause exists for an extension of a debtor's exclusivity period, the key question is whether an extension of exclusivity will function "to facilitate movement towards a fair and equitable resolution of the case, taking into account all the divergent interests involved." *See*, *Official Committee of Unsecured Creditors v. Henry Mayo Newhall Mem. Hosp. (In re Henry Mayo Newhall Memorial Hosp)*. 282 B.R. 444, 453 (B.A.P. 9th Cir. 2002). While not all courts agree on a precise formulation, most rely on the same factors in determining whether an extension of exclusivity should be granted. These factors were summarized in *In re Dow Corning Corp.*, 208 B.R. 661, 664-665 (Bankr. E.D.Mich. 1997).

- The size and complexity of the case;
- The necessity of sufficient time to permit the debtor to negotiate a plan of reorganization;
- The existence of good faith progress toward reorganization;
- The fact that the debtor is paying bills as they come due;
- Whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- Whether the debtor has made progress in negotiations with its creditors;
- The amount of time that has elapsed in the case;
- Whether the debtor is seeking an extension of exclusivity to pressure creditors to submit to the debtor's reorganization demands; and,
- Whether an unresolved contingency exits.

See, *Official Committee of Unsecured Creditors v. Henry Mayo Newhall Mem. Hosp. (In re Henry Mayo Newhall Memorial Hosp)*, supra at 452 (upholding bankruptcy court's decision to grant extension based on the nine factors listed in *Dow Corning*.

The Bankruptcy Appellate Panel upheld the decision of the Bankruptcy Court in *Official Committee of Unsecured Creditors v. Henry Mayo Newhall Mem. Hosp. (In re Henry Mayo Newhall Memorial Hosp)*, supra, where the Bankruptcy Judge, granting the extension found cause based on the following factors:

> (1) a first extension; (2) in a complicated case; (3) that had not been pending for a long time, relative to its size and complexity; (4) in which the debtor did not appear to be proceeding in bad faith; (5) had improved operating revenues so that it was paying current expenses; (6) had shown a reasonable prospect for filing a viable plan; (7) was making satisfactory progress negotiating with key creditors; (8) did not appear to be seeking an extension of exclusivity to pressure creditors; and (9) was not depriving the Committee of material or relevant information.

Id. at 445. *See also*, *In re Perkins*, 71 B.R. 294 (W.D. Tenn. 1987) (court found factors such as the likelihood that the debtor will be able to confirm a plan and the absence of an impermissible purpose as relevant to a determination of whether cause exists to extend exclusivity).

Another factor frequently cited by judges attempting to ascertain "cause" is the time which has elapsed since the filing of the petition. In *In re Swatara Coal Company*, 49 B.R. 898 (Bankr. E.D. Pa. 1985), the first three months after the petition filing date were consumed by a management and ownership dispute. Noting that these first three months were in effect "wasted" as a result of disputes outside of the debtor's control, the Court granted the debtor's exclusivity extension request. Similarly, in *In re Manville Forest Products Corp.*, 31 B.R. 991 (S.D.N.Y. 1983), the initial 120 days and five subsequent extensions were allowed by the District Court on appeal, because the preservation of exclusivity "allowed time for the smoke to clear." The determination as to an extension of exclusivity should balance creditor and debtor interests in favor of reorganization. *In re Pine Run Trust, Inc.*, 67 B.R. 432, 434 (Bankr. E.D. Pa. 1986).

When applying these factors to the present case, the requested extension of the Solicitation Exclusivity Period is warranted. The Debtor has been in the business of providing rideshare van services to passengers since 1977. The Debtors and non-debtor entities will be funding the Plan. As part of its business model, the Debtor contracts with independent contractors to which it subcontracts service assignments. For years, the Debtor has been the target of numerous lawsuits initiated by plaintiff contingency counsel, on behalf of former or disgruntled drivers asserting that they were not independent contractors, but rather employees of the Debtor. Based on that theory, those independent contractors have filed numerous claims for violations of the labor code, violations of employment laws, as well as other related claims. For years, the Debtor has successfully defended these claims as they arise. Unfortunately, they keep coming. As of the Petition Date, the Debtor had been named as a defendant in at least nine separate proceedings.

The Debtors filed their Plan within the initial exclusivity period. As stated, the Debtors have made progress with two separate counsel representing two groups of State Court Plaintiffs toward a consensual resolution of the claims and the Plan. The Debtors wish to continue this progress, so as to have a fair and reasonable opportunity to reach a consensus. To that end, the Debtor is currently considering offers to resolve such claims, as well as avoid potential objections to confirmation, from these two groups, which resolution will require a few modifications to the Plan Trust provided for as part of the Plan. In that regard, the Debtors have deferred submitting certain exhibits pertaining to the claims resolution process and financial exhibits to the Disclosure Statement. Among other reasons, filing such exhibits at this juncture may be counterproductive to the negotiations and resolution. In addition, should the proposed resolution with these two groups come to fruition, the Debtors and negotiating claimants will need additional time to review and conform the exhibits. In furtherance, the Debtors' are in the process of retaining a financial consultant, Special Services, to review the Debtors financial information, so as to assist in resolution for a consensual plan with such claimants. The Debtors intend to file applications to employ Special Services shortly. Therefore, it is likely that a continuance of the Disclosure Statement Hearing will become necessary.

The Claims are unresolved, the resolution process is complex, and the Debtors would like to solicit input from counsel for these creditor groups. First, there is the threshold issue to determine as to whether the drivers are independent contractors. Next, there are also complexities concerning the components of the claims and the treatment under a Chapter 11 plan.

A chapter 11 plan must meet the "best interests of creditors test" set forth in 11 U.S.C. § 1129(a)(7). This provision ensures that the chapter 11 plan of reorganization pays each creditor at least as much in chapter 11 as they would receive in a hypothetical chapter 7 liquidation. Most relevant to the analysis in this case is that in a chapter 7 liquidation, claims for non-pecuniary penalties are subordinated to general unsecured creditors. *[See 11 U.S.C. 726(a)(4)]*. In other words, assuming they can establish that they are not independent contractors, the creditors will be required to demonstrate to this Court that, for each category of penalties allegedly suffered by the drivers, the drivers suffered some "actual pecuniary loss." *[See 11 U.S.C. § 726(a)(4)]*.

A bankruptcy court analyzing whether a claim is for the compensation of an "actual pecuniary loss" will consider the actual effect of the penalty. For example, in *In re Channel One Commc'ns, Inc.*, 125 B.R. 234, 235 (Bankr. E.D. Mo. 1991), the bankruptcy court examined Missouri Statute § 290.110 which entitles an employee to an extra sixty days of wages if the employer fails to pay an employee all accrued wages within seven days of a written demand. The court found that the statute was "expressly penal in nature and constitutes a non-pecuniary loss penalty imposed upon employers for non-payment of wages." *Id.* The court then subordinated the entire labor claim as required by Bankruptcy Code § 726(a)(4).

In this case, it is submitted that the bulk of the categories of labor claims being asserted are for penalties, and not the result of actual pecuniary loss. *Drumm v. Morningstar, Inc.*, 695 F. Supp. 2d 1014, 1022 (N.D. Cal. 2010) (waiting time penalty is designed not to make employees whole, but to act "as a disincentive to employers who are reluctant to pay wages in a timely manner"); *Culley v. Lincare Inc.*, 236 F. Supp.3d 1184, 1194 (E.D.Cal., 2017) (wage statement penalties are statutory and unrelated to any actual damages or loss); *Ruelas v. Costco Wholesale Corporation*, 67 F.Supp.3d 1137, 1143 (N.D.Cal. 2014) ("An additional hour of pay to employees who do not receive the meal period required by Section 226.7(b) is plainly a 'civil penalty"); *Corder v. Houston's Restaurants, Inc.*, 424 F. Supp. 2d 1205 (C.D. Cal. 2006)(awards under § 226.7 are penalties); *Wert v. U.S. Bancorp*, No. 13-CV-3130-BAS BLM, 2014 WL 7330891, at *4 (S.D. Cal. Dec. 18, 2014)(same). Likewise, the California Supreme Court ruled in *Kirby v. Immoos* that attorneys' fees for California Labor Code § 226.7 meal and rest period violations are not recoverable because violations under § 226.7 are not based on a failure to pay wages. *Kirby v. Immoos Fire Prot., Inc.*, 53 Cal. 4th 1244, 274 P.3d 1167-70 (2012).

///

///

The United States Supreme Court has established an "Actual Effect" test to distinguish between pecuniary and non-pecuniary penalties. The Debtors believe that this test applies to a determination of whether the claims in these Cases are for an "actual pecuniary loss." *Reorganized CF&I*, 518 U.S. 213, 219 (1996). Courts distinguishing between pecuniary and non-pecuniary penalties in a bankruptcy context look to the actual operation of the provision in question and ignore the language of the statute. For example, *In re Hovan, Inc.*, 96 F.3d 1254, 1257 (9th Cir. 1996) (citing *Reorganized CF&I*, 518 U.S. 213, 219 (1996)), where the Supreme Court summarized this functional analysis as follows: "a penalty, as the word is here used, is an exaction imposed by statute as punishment for an unlawful act." *Reorganized CF&I.*, at 2113 (*quoting United States v. La Franca*, 282 U.S. 568, 572, (1931)); *see id.* ("if the concept of penalty means anything, it means punishment for an unlawful act or omission").

The point is that the Plan proposes a more expeditious and cost-efficient procedure for determining the Debtor's liability, if any, for these alleged claims; the amount, if any, of such claims; and the nature of treatment of such alleged claims. It is clearly in the best interests of the Debtor, the estate and creditors for the parties to reach a consensus on these issues, if possible.

III.

CONCLUSION

Based upon the foregoing, the Debtor respectfully requests that this Court enter an order (1) extending through **July 23, 2018** its (a) Plan Deadline, and (b) for purposes of maintaining the exclusive period in which only the Debtor may file a plan, the Solicitation Exclusivity Period; and (2) for such other and further relief as is just and proper.

DATED: March 22, 2018

LEECH TISHMAN FUSCALDO & LAMPL, INC.

By: /s/ Sandford L. Frey
SANDY L. FREY
Reorganization Attorneys for Rideshare Port Management, LLC, Debtor and Debtor in Possession.

DECLARATION OF RATTAN JOEA

I, RATTAN JOEA, declare as follows:

1. I am the president of the Debtor[2] in the above-referenced Chapter 11 case. I submit this declaration in support of the Motion. If called to testify, I could and would testify competently concerning the contents of this Declaration.

2. My knowledge of the facts set forth herein is based on my personal knowledge, my review of the company's books and records and on information which I learned from the Debtor's personnel in the course of assisting the Debtor's personnel and outside counsel prepare for the commencement of the within chapter 11 case. I am responsible for the day to day operations of the business.

3. The Red Booth Debtor is a California "C" corporation with its headquarters in Los Angeles, California. The Red Booth Debtor is engaged in the business of providing curbside support at LAX for and on behalf of Red Vans. The employees of the Red Booth Debtor arrange for the pick-up of reservation and non-reservation passengers and their baggage.

4. There has been no interruption in the operation of the Debtor's business prior to and subsequent to the filing of the bankruptcy petition. The Debtor was forced to file for protection under Chapter 11 of the United States Bankruptcy Code to protect and preserve its assets and going concern.

5. On February 9, 2018, the Debtors filed their Disclosure Statement and Plan. The Disclosure Statement Hearing is currently scheduled for April 5, 2018.

6. Cause exists for the requested extensions. Since the filing of the Plan, the Debtors appear to be making progress with two separate counsel representing two groups of State Court Plaintiffs toward a consensual resolution of the claims and the Plan. The Debtors wish to continue this progress, so as to have a fair and reasonable opportunity to reach a consensus. To that end, the Debtor is currently considering offers to resolve such claims, as well as avoid potential objections to confirmation, from these two groups, which resolution will require a few modifications to the Plan

[2] Capitalized terms shall have the meaning ascribed to them in the Notice of Motion, unless defined otherwise or a different meaning is clearly ascertainable from the context of the sentence.

Trust provided for as part of the Plan.

7. Thus, this extension requested by the Motion is not being sought to cause delay or to pressure creditors. Quite to the contrary, it will expedite the reorganization process by giving the Debtors, creditors, non-debtor plan funders and equity holders a fair and reasonable opportunity to reach a consensual plan. Toward that goal, an extension will foster negotiations by permitting those parties negotiating in good faith to be free of distractions from dissident creditors to the detriment of the estates and those creditors making good faith efforts to reach a consensus.

8. The Debtors have deferred submitting certain exhibits pertaining to the claims resolution process and financial exhibits to the Disclosure Statement. Among other reasons, I believe that filing such exhibits at this juncture may be counterproductive to the negotiations and resolution. In addition, should the proposed resolution with these two groups come to fruition, the Debtors and negotiating claimants will need additional time to review and conform the exhibits.

9. The Debtors' are in the process of retaining a financial consultant, Special Services, to review the Debtors financial information, so as to assist in resolution for a consensual plan with such claimants. The Debtors intend to file applications to employ Special Services shortly. Therefore, it is likely that a continuance of the Disclosure Statement Hearing will become necessary.

10. This is the Debtors' first request for an extension. The Debtors are not seeking this extension to pressure creditor, freeze out competing plans or to protect and entrenched management. To the contrary, cause exists for the requested extensions in order to avoid the risk of these Cases deteriorating into a state of confusion and chaos at a critical juncture, at a time when it is in the best interest of creditors and the estates, that the Debtors focus their efforts attempting to reach a consensus or at least narrowing the disputed issues. In other words, the Motion seeks to afford sufficient time for the parties to continue to negotiate toward a consensual resolution of the Cases, if possible.

///

///

///

///

11. I believe that this extension of the solicitation period is in the interests of the estate and all creditors as it will hopefully foster confirmation of a consensual Plan.

I declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on March 22, 2018 in Los Angeles, California.

Rattan Joea

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: LEECH TISHMAN FUSCALDO & LAMPL, INC., US Bank Building, 633 West Fifth Street, 48th Floor, Los Angeles, California 90071.

A true and correct copy of the foregoing document entitled (*specify*): NOTICE OF MOTION AND MOTION BY DEBTOR AND DEBTOR IN POSSESSION FOR ORDER EXTENDING DEBTOR'S EXCLUSIVE PERIOD TO SOLICIT AND ACCEPTANCES OF ITS PLAN OF REORGANIZATION AND THE COURT'S DEADLINE TO CONFIRM A PLAN; DECLARATION OF RATTAN JOEA will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On February 14, 2018, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Sandford L. Frey	sfrey@leechtishman.com; skoenig@leechtishman.com; jabrams@leechtishman.com
US Trustee	ustpregion16.la.ecf@usdoj.gov
Hatty Yip	hatty.yip@usdoj.gov
Michael Kogan	mkogan@ koganlawfirm.com
Tony Forberg	tonyforberg@mac.com; tony@forberglaw.com
Leslie A. Cohen	leslie@lesliecohenlaw.com; Jaime@lesliecohenlaw.com; allie@lesliecohenlaw.com
Dare Law	dare.law@usdoj.gov; Kenneth.g.lau@usdoj.gov, Alvin.mar@usdoj.gov, ron.maroko@usdoj.gov
McCarthy & Holthus, LLP	bknotice@mccarthyholthus.com
Benjamin R Levinson	ben@benlevinsonlaw.com, courtney@benlevinsonlaw.com
Kelly M Raftery	bknotice@mccarthyholthus.com, kraftery@ecf.courtdrive.com
Cheryl C. Rouse	rblaw@ix.netcom.com
Reilly Wilkinson	rwilkinson@scheerlawgroup.com

2. **SERVED BY UNITED STATES MAIL**:
On March 22, 2018, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

x Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on , 2018, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

March 22, 2018	Janis G. Abrams	/s/ Janis G. Abrams
Date	*Printed Name*	*Signature*

XPO Sales, Inc.-Att Theo Petenzi,
636 S. LA Brea Ave.
Inglewood, CA 90301

Andy Gump
26954 Ruether Av.
Santa Clarita, CA 91351

Athena Nasseri
P.O. Box 28379
Santa Ana, CA 92799-8379

Berkshire Hathaway Homestate Co.
c/o Law Office of Brian J. Ferber,
5611 Fallbrook Av.,
Woodland Hills, CA 91367

Broadband Dynamics
8757 E. Via De Commercia #100
Scottsdale, AZ 85258

Capital Growth Properties, Inc.
Cabrillo Plaza
1120 Silverado Street
La Jolla, CA 92037

Towerstream Corporation
c/o Benuck & Company
25 Concord Road Lee, NH 03861

Cazzell & Associate Attorneys
406 Fourth St.
Santa Ana, CA 92701

Edward Smith
c/o Dennis Fusi
4909 Lakewood Blvd. 6th Floor
Lakewood, CA 90712

Epstein Becker & Green
1925 Century Park East, Suite 500
Los Angeles, CA 90067

Vince Olivar
c/o Ophir Bitton
Bitton & Associates
7220 Melrose Ave Fl 2
LA CA 90046-7620

Hassan Mahmoudi
c/o Haffner Law PC
445 S. Figueroa St., Suite 2325
Los Angeles, CA 90071

Wells Fargo
P.O. Box 14517
Des Moines IA 50306

JAMS
555 West Fifth St., 32nd Fl.
Los Angeles, CA 90013

Jose Diaz
Juan Martinez
c/o John J. Jackman
Santa Clarita Station
Box 801534
Santa Clarita, CA 91380

Zurich American Ins. Co.
P.O. Box 68549
Schaumberg, IL 60168-0549

Self-Help Trust
Kumar Bhatt, Trustee
10208 Icefield Ct.
Corona, CA 92883-9265

Mila A. Aguilar
Roberto V. Aguilar
1755 Brittney Rd.
Beaumont, CA 92223

Parminder Joea
4945 Shady Trail St
Simi Valley, CA 93063

Raymond Moradian
1023 Thompson Avenue, Apt. 5
Glendale, CA 91201

Roberto Martinez
2991 Chestnut Ave.
Long Beach, CA 90806

Ronaldo Ramos
11519 183rd Street
Artesia, CA 90701

Scottsdale Insurance
GB Collects, LLC
1253 Haddonfield Berlin Road
Voorhees, NJ 08043-4847

Sprint Solutions, Inc./Teri Scharf
McCarthy, Burgess & Wolff
2600 Cannon Road
Bedford, OH 44146

Winthrop Couchot Professional Corp
660 Newport Center Dr.
Newport Beach, Ca 92660