

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

_____)	
)	Chapter 11
In re:)	
)	
EATERIES, INC., <i>et al.</i> ¹)	Case No. 17-11444-SAH
Debtors.)	
_____)	(Jointly Administered)

DEBTORS’ AMENDED APPLICATION TO SHORTEN TIME, REQUEST FOR APPROVAL OF ABBREVIATED NOTICE PROCEDURES AND FOR EXPEDITED CONSIDERATION OF FIRST DAY MOTIONS

Eateries, Inc. (“Eateries”) and GRP of Zanesville, LLC (“Zanesville”), debtors and debtors-in-possession (collectively the “Debtors”), file this Amended Application to Shorten Time, Request for Approval of Abbreviate Notice Procedures, and for Expedited Consideration of the First Day Motions. In support of this Motion, the Debtors rely on the Affidavit of William C. Liedtke, III, Vice President of Eateries, and Zanesville, in Support of the Debtors’ Chapter 11 Petitions and First Day Motions, sworn to on April 18, 2017 (the "First Day Affidavit").² Debtors seek to shorten time, request approval of abbreviated notice procedure, and for expedited consideration of the following motions, which Debtors anticipate they may file on the Petition Date (as defined below) (the “First Day Motions”):

- (a) Debtors’ Motion for Interim Order (i) Authorizing Debtors (A) to Obtain Secured Superpriority Post-Petition Financing, and (B) to Use Cash Collateral of Pre-Petition Lender, (ii) Granting Adequate Protection to Pre-Petition Lender, (iii) Modifying the Automatic Stay, (iv) Setting Final Hearing, and (v) Granting Related Relief (the “DIP Financing/Cash Collateral Motion”).

¹ The affiliated Debtors are Eateries, Inc. and GRP of Zanesville, LLC, Case Nos. 17-11444 and 17-11445.

² Capitalized terms used herein and not otherwise defined have the meaning set forth in the First Day Affidavit.

- (b) Motion for Order Pursuant to Sections 363(b) and 105(a) of The Bankruptcy Code Authorizing Debtor to Pay Pre-Petition Claims In the Ordinary Course of Business (the “Ordinary Course Motion”).
- (c) Debtors’ Motion Pursuant to 11 U.S.C. §§ 105(a) and 503(b)(1) for Authorization to Honor Certain Pre-Petition Customer Programs (the “Customer Program Motion”).
- (d) Debtors’ Motion for order under 11 U.S.C. §§ 105, 363 and 507, (i) Authorizing Debtors’ to Pay or Otherwise Honor Pre-Petition Employee Obligations; (ii) Confirming Debtors’ Right to Continue all Benefits on a Post-Petition Basis; (iii) Confirming Debtors’ are Permitted to Pay Any and All Local, State and Federal Withholding and Payroll Related or Similar Taxes Relating to Pre-Petition Periods; (iv) Authorizing Debtors to Pay any Pre-Petition claims Owing to the Payroll Administrator used by the Debtors; (v) Directing all Banks to Honor Pre-Petition Checks for Payment of the Pre-Petition Employee Obligations; and (vi) Granting Related Relief (the “Employee Wage Motion”)
- (e) Motion for Order Under 11 U.S.C. §§ 105, 363, 364, 1107 and 1108 (i) Authorizing Continued Use of Existing Bank Account, Business Firms, and Cash Management System; (ii) Waiving Requirements of Section 345 of the Bankruptcy Code; and Authorizing Continuation of Intercompany Transactions (the “Cash Management Motion”).
- (f) Motion for Interim and Final Orders Determining Adequate Assurance of Payment for Post-Petition Utility Services (the “Utility Motion”).
- (g) Motion for Order (i) Authorizing Continuance of Pre-Petition Insurance Program; and (ii) Authorizing Payment of Any Pre-Petition Premiums and Related Obligations; and (iii) Directing Bank to Honor Checks for Pre-Petition Premiums (the “Insurance Motion”).
- (h) Motion for Entry of an Order (i) Authorizing the Debtors to File a Consolidated Creditor Matrix and (ii) Granting Authority to Establish the Master Service List Applicable to These Cases (the “Master Creditor Service List Motion”).
- (i) Debtor’s Motion to Approve Website Procedures (the “Website Motion”).

In support, Debtors show the Court as follows:

JURISDICTION & VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A). Venue is proper in this

district pursuant to 28 U.S.C. § 1409.

BRIEF STATEMENT OF FACTS AND RELIEF REQUESTED

2. On April 18, 2017 (the “Petition Date”), the Debtors filed voluntary petitions for relief pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Western District of Oklahoma (the “Bankruptcy Court”).

3. Debtors continue to operate their businesses as a debtors in possession pursuant to §§ 1107 and 1108.³ The U. S. Trustee has not yet appointed any official committees in these cases, and no request has been made for the appointment of a trustee or examiner.

4. These cases are jointly administered pursuant to this Court's Order entered April 18, 2014. [Dkt. No. 5]. A description of the Debtors’ business, the reasons for filing these chapter 11 cases and the relief sought from this Court to allow for a smooth transition into operations under chapter 11 is set forth in the First Day Affidavit. The Debtors hereby adopt and incorporate the First Day Affidavit as if fully set forth herein.

5. Debtors anticipate filing the First Day Motions on the Petition Date, seeking relief that is essential to (i) the continued operation of Debtors’ businesses; (ii) the preservation of the bankruptcy estate; and (iii) the effective and efficient administration of the bankruptcy case.

6. The First Day Motions identified herein seek expedited relief related to Debtors’ post-petition financing needs, Debtors' utilities providers, Debtors’ employee benefit programs, and Debtors’ cash management systems.

7. Notice of the First Day Motions identified herein that are filed on the Petition Date will be faxed or emailed to the 20 largest unsecured creditors on the Petition Date for each

³ Unless otherwise stated, statutory references herein are to the United States Bankruptcy Code, 11 U.S.C. §101, et. seq.

of the Debtors. Such notice shall also be provided by facsimile or electronically to Fresh Capital, LLC, Practical Investors, LLC, and Fiesta Holdings, LLC, the Debtors' secured creditors; the Office of the United States Trustee for the Western District of Oklahoma; Debtors' landlords listed in Schedule G; as well as any party directly affected by the relief sought therein (i.e.- utility service providers, financial institutions, etc.).

8. Each of the First Day Motions identified herein requests relief essential to the continued operation and success of Debtors, and therefore the First Day Motions should be heard and considered on an expedited basis.⁴ The First Day Motions seek relief typical of a bankruptcy case of similar size and complexity to that of Debtors.

9. The Court's immediate consideration of the First Day Motions is crucial to Debtors' survival and successful reorganization. In the event that the First Day Motions are not immediately heard, Debtors run the risk of losing time critical to Debtors' success in these bankruptcy proceedings.

10. In light of the necessity for immediate hearing, Debtors request that pursuant to FED. R. BANKR. P. 9006(c), the time for response to those First Motions filed on the Petition Date be shortened and that the First Day Motions be set for hearing on April 25, 2017, at 1:30 p.m. (the "First Day Hearing").

11. In an effort to provide expeditious and adequate notice to all creditors and parties-in-interest without unduly burdening the estate, Debtors request permission to e-mail and/or fax copies of the First Day Motions to (i) the Office of the United States Trustee, (ii) SpiritBank, care of counsel Kevin Blaney; (iii), Fresh Capitol, LLC, Practical Investors, LLC, and Fiesta

⁴ Debtors filed other motions on the first day of the case for which expedited relief has not been sought. Those motions will be addressed pursuant to the ordinary bankruptcy rules governing notice and hearing.

Holdings, LLC care of counsel Jared Giddens, Dillon Curran, Justin Pybas (“Secured Lenders”); (iv) Debtors’ landlords listed on Schedule G, and (v) the twenty largest unsecured creditors for each of the Debtors (collectively the “First Day Notice Parties”).

12. The proposed notice attached hereto as Exhibit 1 will be provided directing the First Day Notice Parties to an internet website, <https://www.eateriesinc.com> maintained by Debtors where the First Day Notice Parties can view, access, and download the numerous pleadings in the case without charge. Debtors will also remit a filed copy of the Order granting the relief requests by this Motion. See Proposed Order attached hereto as Exhibit 2.

13. Debtors submit that the voluminous nature of the Pleadings filed in the case, in addition to being costly to print and mail, has the potential to render the fax machines of creditors and parties-in-interest receiving notice by facsimile functionally useless by tying up the fax line while quickly draining the machines of both paper and ink before complete transmission is accomplished.

14. By providing, free of charge, readily accessible copies of all pleadings and notices filed herein, Debtors seek to alleviate burdens of resources on both creditors and estates, while providing notice in the most expeditious manner possible.

15. This Court authorized website service and notice in 2004 in *In Re: Amerivision Communications, Inc.*, Case No. 03-23388 NLJ (Chapter 11) (Dkt. #177) (May 25, 2004). Further, Debtors would show the Court that notice can be found to be adequate if it is reasonably calculated to achieve actual notice to parties, *see Park Nursing Center*, 766 F.2d 261 (6th Cir. 1985). Service by publication is authorized in circumstances where it is impracticable to provide notice through other means. FRBP 2002(l). The Court has authority to generally regulate the manner and form of notices and can determine the form, manner and medium of notice by

publication, FRBP 2002(m) and 90007. The Court may enter Orders to effect any provision of the Code. 11 U.S.C. §105(a). In *B&B Worm Farms, Inc.*, Case No. 03-14379, this Court authorized the Chapter 7 Trustee to provide notice via website to creditors and parties-in-interest.

16. By posting Pleadings on the website, expeditious and adequate notice to a large number of creditors will be achieved, at substantial savings to the Estates. Additionally, creditors and parties in interest will be able to read, download and print such copies at their convenience, without the delay of delivery by mail, or the potential for disruption caused by facsimile.

17. Orders granting some of the First Day Motions will require entry of orders only on an interim basis subject to further notice and a final hearing. Debtors request such final hearing be heard on May 11, 2017 at 1:30 p.m. (the “Final Hearing”).

18. The time between notice of the First Day Motions and the Final Hearing is in excess of 21 days.

19. **WHEREFORE**, for the reasons set forth above, Debtors request that the Court set those First Day Motions that are filed on the Petition Date for hearing on April 25, 2017, at 1:30 p.m., set the time for response to such First Day Motions for no later than April 24, 2017 at 12:00 p.m. (C.S.T.), set the Final Hearing on any interim orders entered regarding the First Day Motions for May 12, 2017, at 9:30 a.m., approve Debtors’ proposed abbreviated notice procedures as described herein, and for all other relief this Court deems equitable.

Respectfully submitted,

s/ Mark A. Craige

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PROPOSED COUNSEL FOR DEBTOR

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

)	
)	Chapter 11
In re:)	
)	
EATERIES, INC., <i>et al.</i> ¹)	Case No. 17-11444-SAH
Debtors.)	
)	(Jointly Administered)

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THIS DOCUMENT CAREFULLY AND CONSULT YOUR ATTORNEY ABOUT YOUR RIGHTS AND THE EFFECT OF THIS DOCUMENT. A HEARING WILL BE CONDUCTED ON THIS MATTER AT THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF OKLAHOMA, OLD POST OFFICE BUILDING, 215 DEAN A. MCGEE AVENUE, OKLAHOMA CITY, OKLAHOMA. IF YOU DO NOT WANT THE COURT TO GRANT THE REQUESTED RELIEF, YOU MUST FILE A WRITTEN RESPONSE OR OBJECTION SPECIFICALLY ANSWERING EACH PARAGRAPH OF THE PLEADING TO WHICH YOU ARE OBJECTING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF OKLAHOMA, 215 DEAN A. MCGEE AVENUE, OKLAHOMA CITY, OK 73102. IN ADDITION TO FILING YOUR RESPONSE WITH THE CLERK, YOU MUST SERVE A FILE-STAMPED COPY OF YOUR RESPONSE OR OBJECTION ON THE SIGNING ATTORNEY AND TO ANY OTHER PARTY SPECIFIED. IF NO RESPONSE OR OBJECTION IS TIMELY FILED, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED WITHOUT HEARING.

EMERGENCY RELIEF AND AN EXPEDITED HEARING HAVE BEEN REQUESTED. IF THIS COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS TIME TO RESPOND. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE

¹ The affiliated Debtors are Eateries, Inc. and GRP of Zanesville, LLC, Case Nos. 17-11444 and 17-11445.

EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT AND IMMEDIATELY SERVE A COPY OF YOUR RESPONSE ON COUNSEL FOR THE DEBTOR AND ON ANY OTHER PARTY SPECIFIED.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

Eateries, Inc. (“Eateries”) and GRP of Zanesville, LLC (“Zanesville”) have filed for protection under Chapter 11 of the Bankruptcy Code. **The motions listed below have been filed with the court and set for hearing at 1:30 p.m. on April 25, 2017 at 215 Dean A McGee Ave, 9th Floor, Oklahoma City, OK 73102, before Judge Sarah A. Hall.**

- 1) Debtors’ Motion for Interim Order (i) Authorizing Debtors (A) to Obtain Secured Superpriority Post-Petition Financing, and (B) to Use Cash Collateral of Pre-Petition Lender, (ii) Granting Adequate Protection to Pre-Petition Lender, (iii) Modifying the Automatic Stay, (iv) Setting Final Hearing, and (v) Granting Related Relief (the “DIP Financing/Cash Collateral Motion”).
- 2) Motion for Order Pursuant to Sections 363(b) and 105(a) of The Bankruptcy Code Authorizing Debtor to Pay Pre-Petition Claims in the Ordinary Course of Business (the “Ordinary Course Motion”).
- 3) Debtors’ Motion Pursuant to 11 U.S.C. §§ 105(a) and 503(b)(1) for Authorization to Honor Certain Pre-Petition Customer Programs (the “Customer Program Motion”).
- 4) Debtors’ Motion for Order Under 11 U.S.C. §§ 105, 363 and 507, (i) Authorizing Debtors’ to Pay or Otherwise Honor Pre-Petition Employee Obligations; (ii) Confirming Debtors’ Right to Continue All Benefits on a Post-Petition Basis; (iii) Confirming Debtors Are Permitted to Pay Any and All Local, State and Federal Withholding and Payroll Related or Similar Taxes Relating to Pre-Petition Periods; (iv) Authorizing Debtors to Pay Any Pre-Petition Claims Owing to the Payroll Administrator Used by the Debtors; (v) Directing All Banks to Honor Pre-Petition Checks for Payment of the Pre-Petition Employee Obligations; and (vi) Granting Related Relief (the “Employee Wage Motion”).
- 5) Motion for Order Under 11 U.S.C. §§ 105, 363, 364, 1107 and 1108 (i) Authorizing Continued Use of Existing Bank Account, Business Firms, and Cash Management System; (ii) Waiving Requirements of Section 345 of the Bankruptcy Code; and Authorizing Continuation of Intercompany Transactions (the “Cash Management Motion”).

- 6) Motion for Interim and Final Orders Determining Adequate Assurance of Payment for Post-Petition Utility Services (the “Utility Motion”).
- 7) Motion for Order (i) Authorizing Continuance of Pre-Petition Insurance Program; and (ii) Authorizing Payment of Any Pre-Petition Premiums and Related Obligations; and (iii) Directing Bank to Honor Checks for Pre-Petition Premiums (the “Insurance Motion”).
- 8) Motion for Entry of an Order (i) Authorizing the Debtors to File a Consolidated Creditor Matrix and (ii) Granting Authority to Establish the Master Service List Applicable to These Cases (the “Master Creditor Service List Motion”).
- 9) Debtor’s Motion to Approve Website Procedures (the “Website Motion”).

Responses and Objections to the First Day Motions filed by the Debtors on April 18, 2017 shall be filed no later than **Monday, April 24, 2017, at 12:00 p.m.**

The Final Hearing on any interim orders entered regarding the First Day Motions is hereby set for **May 12, 2017, at 9:30 a.m.**

COPIES OF ALL PLEADINGS FILED IN THIS CASE CAN BE ACCESSED AT WWW.EATERIESINC.COM OR BY CALLING COUNSEL FOR DEBTORS AT 405-234-3245 AND REQUESTING A COPY.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

_____)	
)	Chapter 11
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)	
EATERIES, INC., <i>et al.</i> ¹)	Case No. 17-11444-SAH
Debtors.)	
_____)	(Jointly Administered)

**ORDER GRANTING DEBTORS’ APPLICATION TO SHORTEN TIME
AND FOR EXPEDITED CONSIDERATION OF FIRST DAY MOTIONS**

This matter comes before the Court upon the Application filed by Eateries, Inc., *et al.*, debtors and debtors-in-possession in the above captioned cases (collectively, the “Debtors”), to Shorten Time and for Expedited Consideration of First Day Motions (the “Application”) filed April 18, 2017 [Dkt. No. ____]. For cause shown in the Application, the Court finds that the Application should be granted.

¹ The affiliated Debtors are Eateries, Inc. and GRP of Zanesville, LLC, Case Nos. 17-11444 and 17-11445

IT IS THEREFORE ORDERED that those of the following motions that were filed by the Debtors on April 18, 2017 (the “First Day Motions”) are hereby set for hearing on **April 25, 2017, at 1:30 p.m.**

- (a) Debtors’ Motion for Interim Order (i) Authorizing Debtors (A) to Obtain Secured Superpriority Post-Petition Financing, and (B) to Use Cash Collateral of Pre-Petition Lender, (ii) Granting Adequate Protection to Pre-Petition Lender, (iii) Modifying the Automatic Stay, (iv) Setting Final Hearing, and (v) Granting Related Relief (the “DIP Financing/Cash Collateral Motion”).
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- (d) Debtors’ Motion for Order under 11 U.S.C. §§ 105, 363 and 507, (i) Authorizing Debtors’ to Pay or Otherwise Honor Pre-Petition Employee Obligations; (ii) Confirming Debtors’ Right to Continue All Benefits on a Post-Petition Basis; (iii) Confirming Debtors Are Permitted to Pay Any and All Local, State and Federal Withholding and Payroll Related or Similar Taxes Relating to Pre-Petition Periods; (iv) Authorizing Debtors to Pay Any Pre-Petition Claims Owing to the Payroll Administrator Used by the Debtors; (v) Directing All Banks to Honor Pre-Petition Checks for Payment of the Pre-Petition Employee Obligations; and (vi) Granting Related Relief (the “Employee Wage Motion”).
- (e) Motion for Order Under 11 U.S.C. §§ 105, 363, 364, 1107 and 1108 (i) Authorizing Continued Use of Existing Bank Account, Business Firms, and Cash Management System; (ii) Waiving Requirements of Section 345 of the Bankruptcy Code; and Authorizing Continuation of Intercompany Transactions (the “Cash Management Motion”).
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- (h) Motion for Entry of an Order (i) Authorizing the Debtors to File a Consolidated Creditor Matrix and (ii) Granting Authority to Establish the Master Service List Applicable to These Cases (the “Master Creditor Service List Motion”).
- (i) Debtor’s Motion to Approve Website Procedures (the “Website Motion”)

IT IS FURTHER ORDERED that the abbreviated notice procedures and form of notice attached to Debtor’s Application are hereby approved and Debtors are authorized to effectuate service of the First Day Motions in the manner proposed in the Motion.

IT IS FURTHER ORDERED that Responses and Objections to those of the First Day Motions filed by the Debtors on April 18, 2017 2017, shall be filed no later than **Monday, April 24, 2017, at 12:00 p.m.**

IT IS FURTHER ORDERED that the Final Hearing on any interim orders entered regarding the First Day Motions is hereby set for **May 12, 2017, at 9:30 a.m.**

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APPROVED FOR ENTRY:

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