

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

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

**DEBTORS' AMENDED MOTION TO APPROVE WEBSITE NOTICE PROCEDURES  
AND NOTICE OF OPPORTUNITY FOR HEARING**

**YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THIS DOCUMENT CAREFULLY AND CONSULT YOUR ATTORNEY ABOUT YOUR RIGHTS AND THE EFFECT OF THIS DOCUMENT. IF YOU DO NOT WANT THE COURT TO GRANT THE REQUESTED RELIEF, OR YOU WISH TO HAVE YOUR VIEWS CONSIDERED, YOU MUST FILE A WRITTEN RESPONSE OR OBJECTION TO THE REQUESTED RELIEF WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF OKLAHOMA, 215 DEAN A. MCGEE AVE., OKLAHOMA CITY, OK 73102 NO LATER THAN MONDAY, APRIL 24, 2017 AT 12:00 P.M. YOU SHOULD ALSO SERVE A FILE-STAMPED COPY OF YOUR RESPONSE OR OBJECTION TO THE UNDERSIGNED MOVANT'S ATTORNEY AND ALL OTHERS REQUIRED TO BE SERVED AND FILE A CERTIFICATE OF SERVICE WITH THE COURT. IF NO RESPONSE OR OBJECTION IS TIMELY FILED, THE COURT MAY GRANT THE REQUESTED RELIEF WITHOUT A HEARING OR FURTHER NOTICE.**

**A hearing will be held on this Pleading 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.**

**If necessary, the Final Hearing on any interim orders entered regarding this pleading will be held on May 12,**

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

**2017, at 9:30 a.m. at 215 Dean A McGee Ave, 9th Floor,  
Oklahoma City, OK 73102, before Judge Sarah A. Hall.**

Pursuant to 11 U.S.C. §105(a) and FRBP 2002(l) and (m), 9007 and 9008, Eateries, Inc. (“Eateries”) and GRP of Zanesville, LLC (“Zanesville”), Debtors and debtors-in-possession (collectively the “Debtors”), hereby ask the Court to approve the use of a free-access internet website to provide notices to creditors and parties-in-interest in the above-captioned case, including without limitation notice and copies of all pleadings filed in the above-captioned case, until terminated or otherwise ordered (collectively, the “Pleadings”).

In support of this, the Debtors would show the following:

**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 debtors in possession pursuant to §§ 1107 and 1108.<sup>2</sup> 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, 2017. [Dkt. No. 5]. A description of the Debtors’ businesses, the reasons for filing these

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<sup>2</sup> Unless otherwise stated, statutory references herein are to the United States Bankruptcy Code, 11 U.S.C. §101, et. seq.

chapter 11 cases, and the relief sought from this Court to allow for a smooth transition into operations under chapter 11 are set forth in the First Day Affidavit [Dkt. No. 10], which was filed contemporaneously with this Motion. The Debtors hereby adopt and incorporate the First Day Affidavit as if fully set forth herein.

5. 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.

6. 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.

7. If allowed to use their website accessible at <https://www.eateriesinc.com> maintained by Debtors for service and notice, Debtors will continue to provide notice by mail to any of those parties required to be notified under the Bankruptcy Rules and Local Rules who do not automatically receive electronic notice *or* who request notice by mail directing them to the website each time a pleadings is filed.

#### **AUTHORITY**

8. 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.

9. 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.

**NOTICE**

10. Notice of this pleading has been provided by e-mail, facsimile, or overnight delivery to: (i) the Office of the United States Trustee; (ii) SpiritBank, care of counsel Kevin Blaney; (iii), Fresh Capital, LLC, Practical Investors, LLC, and Fiesta Holdings, Inc., care of counsel Jared Giddens, Dillon Curran, Justin Pybas (“Secured Lenders”); Debtors’ landlords listed on Schedule G, and (iv) the twenty largest unsecured creditors for each of the Debtors.

**WHEREFORE**, for the reasons set forth above, Debtors respectfully request that the Court enter an order authorizing the provision of notice via website as requested herein, finding that notice via internet website posting is adequate and sufficient under the circumstances, and authorize the Debtors to utilize the procedures set forth herein.

Respectfully submitted,

s/ Lysbeth George  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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

**ORDER GRANTING DEBTORS' AMENDED MOTION TO APPROVE  
WEBSITE NOTICE PROCEDURES  
[Pertains to the Motion at Dkt. #\_\_]**

This matter comes before the Court upon the Amended Motion filed by Eateries, Inc., *et al.*, debtors and debtors-in-possession in the above captioned cases (collectively, the “Debtors”), to Approve Website Notice Procedures (the “Amended Website Motion”) filed April 19, 2017 [Dkt. No. \_\_\_\_]. For cause shown in the Motion, the Court finds that the Amended Website Motion should be granted.

\_\_\_\_\_  
<sup>1</sup> The affiliated Debtors are Eateries, Inc. and GRP of Zanesville, LLC, Case Nos. 17-11444 and 17-11445

**IT IS THEREFORE ORDERED** that the Amended Website Motion is GRANTED in its entirety.

IT IS FURTHER ORDERED that Debtors are granted permission to use their website <https://www.eateriesinc.com> to give notice and service in the above-captioned case.

IT IS FURTHER ORDERED that the Debtors will mail a notice by letter or postcard to any of those parties required to be notified under the Bankruptcy Rules and Local Rules who do not automatically receive electronic notice *or* who request notice by mail directing them to the website each time a pleadings is filed.

Any findings of fact herein are based upon representations of counsel.

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APPROVED FOR ENTRY:

**CROWE & DUNLEVY, P.C.**

*s/ Lysbeth George*

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*s/ Mark A. Craige*

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