

**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' MOTION TO APPROVE WEBSITE NOTICE PROCEDURES**

**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 THIS PLEADING. 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 EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE WITH THE

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

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.

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

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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.

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 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. In light of the expedited nature of the relief requested herein and the irreparable harm to the Debtors that may ensue if the relief requested is not granted, the Debtors submit that no further notice need be given and that the notice provided by the Debtors is sufficient.

**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/ 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> <sup>1</sup>	)	Case No. 17-11444-SAH
Debtors.	)	
_____	)	(Jointly Administered)

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

This matter comes before the Court upon the 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 “Website Motion”) filed April 18, 2017 [Dkt. No. \_\_\_\_]. For cause shown in the Motion, the Court finds that the Motion should be granted.

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

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

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:

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