

Objection Deadline: April 18, 2023 at 12:00 p.m. (prevailing ET)

Hearing Date and Time: April 25, 2023 at 10:00 a.m. (prevailing ET)

VENABLE LLP

750 East Pratt Street, Suite 900

Baltimore, Maryland 21202

Telephone: (410) 244-7400

Facsimile: (410) 244-7742

Attn: Gregory A. Cross

Mitchell Y. Mirviss (admitted pro hac vice)

Evan T. Shea (admitted pro hac vice)

- and -

151 West 42nd Street, 49th Floor

New York, New York 10036

Telephone: (212) 307-5500

Facsimile: (212) 307-5598

Attn: Matthew T. McLaughlin

Michael A. Guerra

Counsel for Plaintiffs and Third-Party Defendants

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

EXTENDED STAY, INC., et al.,

Reorganized Debtors.

FINBARR O'CONNOR, et al.,

Plaintiffs,

v.

DL-DW HOLDINGS, L.L.C., et al.,

Defendants.

DL-DW HOLDINGS, L.L.C., et al.,

Third-Party Plaintiffs,

v.

CWCAPITAL ASSET MANAGEMENT LLC, et al.,

Third-Party Defendants.

Chapter 11

Case No. 09-13764 (JLG)

Adv. Pro. No. 11-02254 (JLG)



**NOTICE OF HEARING AND MOTION
PURSUANT TO BANKRUPTCY RULE 9019 AND 11 U.S.C. § 105(a)
BY PLAINTIFFS THE EXTENDED STAY LITIGATION TRUST AND
FINBARR O’CONNOR AS SUCCESSOR TRUSTEE FOR ENTRY OF
AN ORDER APPROVING SETTLEMENT AGREEMENT**

PLEASE TAKE NOTICE that upon the accompanying Declaration of Gregory A. Cross in Support of Motion of Plaintiffs The Extended Stay Litigation Trust and Finbarr O’Connor as Successor Trustee pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and Section 105 of the Bankruptcy Code for Entry of an Order Approving Settlement Agreement, executed on March 29, 2023 (including all exhibits filed therewith – the “Cross Declaration”), and the Motion of Plaintiffs’ The Extended Stay Litigation Trust and Finbarr O’Connor as Successor Trustee pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and Section 105 of the Bankruptcy Code for Entry of an Order Approving Settlement Agreement, dated March 29, 2023, and upon all other filings and proceedings had before the Court, Plaintiffs the Extended Stay Litigation Trust (the “Trust”) and Finbarr O’Connor, as Successor Trustee for the Trust (together with the Trust, the “Litigation Trust”) will, through their undersigned counsel, move this Court before the Honorable James L. Garrity, Jr. United States Bankruptcy Judge, in the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, Courtroom 723, New York, New York 10004, on April 25, 2023 at 10:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel can be heard, for an order pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure and Section 105 of the Bankruptcy Code (a) that approves that certain settlement agreement dated March 23, 2023, by and among all parties to the adversary proceeding captioned above (but excluding Polar Extended Stay (USA), LP), a copy of which is attached to the Cross Declaration as Exhibit A, (b) that authorizes the Litigation Trust to take and perform such other actions as may be necessary or appropriate to implement and effectuate the

settlement agreement, (c) that substantially conforms to the proposed order filed herewith, attached to the Cross Declaration as Exhibit A, and (d) that grants such other and further relief as this Court may deem just and proper (the “Motion”).

PLEASE TAKE FURTHER NOTICE that the Motion was electronically filed with the Clerk of the Bankruptcy Court and may be examined and inspected by interested parties on the Court’s website (<http://www.nysb.uscourts.gov>). Please note that a PACER password is needed to access documents on the Court’s website. All parties who have filed a notice of appearance will be provided with this notice by regular first class mail and electronic mail (email) if an address is provided.

PLEASE TAKE FURTHER NOTICE that opposition to this motion, if any, shall be due on or before April 18, 2023 at 12:00 p.m. (prevailing ET) (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that any responses or objections shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules, shall either: a) be filed with the Bankruptcy Court by attorneys practicing in the Bankruptcy Court, including attorneys admitted pro hac vice, electronically in accordance with General Order M-399 (which can be found at www.nysb.uscourts.gov); or b) be filed with the Bankruptcy Court at casefiling@nysb.uscourts.gov in a text-searchable portable document format (PDF) in accordance with the customary practices of the Bankruptcy Court and General Orders M-399 and M-543.

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

PLEASE TAKE FURTHER NOTICE that any objecting parties are required to attend the hearing on April 25, 2023 and failure to appear may result in relief being granted or denied upon default.

Dated: March 29, 2023

VENABLE LLP

By: /s/ Gregory A. Cross
Gregory A. Cross
Mitchell Y. Mirviss*
Evan T. Shea*
750 East Pratt Street, Suite 900
Baltimore, Maryland 21202
Telephone: (410) 244-7400
Facsimile: (410) 244-7742

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Matthew T. McLaughlin
Michael A. Guerra
151 West 42nd Street, 49th Floor
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Facsimile: (212) 307-5598

*Counsel for Plaintiffs and Third-Party
Defendants*

*Admitted pro hac vice