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Co-counsel for Successor Litigation Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

EXTENDED STAY INC., et al.,

Debtors.

-----X

Case No. 09-13764 (JLG)

Chapter 11

(Jointly Administered)

**CERTIFICATE OF NO OBJECTION REGARDING AMENDED NOTICE OF
HEARING ON LITIGATION TRUSTEE’S
TWELFTH OMNIBUS OBJECTION TO CLAIMS
(Late-Filed Claims, Satisfied Claims, No Liability Claims or
Reduced Liability Claims and Insufficiently Documented Claims)**

Pursuant to Rule 9075-2 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), the undersigned hereby certifies as follows:

1. On June 6, 2023, Finnbar O’Connor, in his capacity as Successor Litigation Trustee for and on behalf of the Extended Stay Litigation Trust (the “Trustee”) filed the *Amended Notice of Hearing on Litigation Trustee’s Twelfth Omnibus Objection to Claims (Late-Filed Claims, Satisfied Claims, No Liability Claims or Reduced Liability Claims and Insufficiently Documented Claims)* (the “Notice”) [Docket No. 1991].



2. The Notice was served on June 9, 2023 in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules. See Certificate of Service of Angela Nguyen, sworn to on June 14, 2023 [Docket No. 1992].

3. Pursuant to the Notice, and in accordance with the Local Rules, any objections to the Notice were to be filed and served by no later than June 27, 2023 at 4:00 p.m. (prevailing Eastern time) (the “Objection Deadline”).

4. As of the date hereof, which is more than 48 hours after the Objection Deadline, no objection or responsive pleading with respect to the Notice has been filed or served on Trustee’s counsel, and Trustee’s counsel has reviewed the Court’s docket in this case and no objection or responsive pleading with respect to the Notice appears thereon.

5. Accordingly, it is respectfully requested that the Court enter the proposed order, attached hereto as **Exhibit A**, granting the Motion without need for a hearing.

Dated: New York, New York
July 7, 2023

THOMPSON COBURN LLP

By: /s/ Joseph Orbach
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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

EXTENDED STAY INC., et al.,

Debtors.

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Case No. 09-13764 (JLG)

Chapter 11

(Jointly Administered)

**ORDER GRANTING LITIGATION TRUSTEE'S
TWELFTH OMNIBUS OBJECTION TO CLAIMS
(Late-Filed Claims, Satisfied Claims, No Liability Claims or
Reduced Liability Claims and Insufficiently Documented Claims)**

Upon the Successor Litigation Trustee's (the "Trustee") Twelfth Omnibus Objection to Claims (Late-Filed Claims, Satisfied Claims, No Liability Claims or Reduced Liability Claims and Insufficiently Documented Claims) (the "Objection," Docket No. 1557), dated January 17, 2012, seeking to disallow and expunge certain late-filed claims, satisfied claims, no liability claims or reduced liability claims and insufficiently documented claims, all as more fully set forth in the Objection; and this Court having jurisdiction to consider the Objection and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 19, 1984 (Ward, Acting C.J.); and consideration of the Objection and the relief requested therein being a core proceeding pursuant to 28

U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Objection having been provided to (i) Claimants, (ii) the United States Trustee for the Southern District of New York, (iii) counsel to Newco, (iv) counsel to the Debtors, and (v) those parties included on the latest master service list on file in these chapter 11 cases, and it appearing that no other or further notice need be provided; and a hearing having been scheduled on the Objection for July 25, 2023; and the Court having determined that the relief sought in the Objection is in the best interests of the Plan Debtors, their estates, and their creditors; and the Court having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Objection is granted; and it is further

ORDERED that each of the claims listed on Exhibit 1 attached hereto is hereby disallowed and expunged in its entirety; and it is further

ORDERED that the claims agent is authorized and directed, pursuant to this Order, to modify the official claims registry in these chapter 11 cases as necessary to implement the relief granted in this Order; and it is further

ORDERED that the Trustee's rights and defenses with respect to any claims filed by Claimants, including those listed in Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4 attached hereto shall be preserved, including, but not limited to, the right to further object to the claims on any basis; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from the interpretation and/or implementation of this Order.

Dated: _____, 2023
New York, New York

Honorable James L. Garrity
United States Bankruptcy Judge

EXHIBIT 1

Late Filed Claims to be Disallowed and Expunged in Their Entirety

No.	Claimant	Untimely Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Claim Filing Date	Objection Page Reference
1.	Capital One Bank USA, N.A. by American InfoSource LP as Agent	1384	ESA P Mezz L.L.C.	\$986.35	General Unsecured	This claim was untimely filed. Additionally, the claim was not filed against any of the Debtors.	1/22/2010	pp. 1-8
2.	Capital One Bank USA, N.A. By American InfoSource LP as Agent	1387	ESH/Homestead Mezz 3 L.L.C.	\$11,251.04	General Unsecured	This claim was untimely filed. Additionally, the claim was not filed against any of the Debtors.	1/25/2010	pp. 1-8
3.	City of Carmel Utilities	1285	Extended Stay Inc.	\$1,460.83	General Unsecured	This claim was filed against "Extended Stay, Inc. et al." Consistent with the Plan, neither the Trustee nor the Trust have any obligation to object to claims of ESI. To the extent this claim is filed against a Debtor other than ESI, this claim was untimely filed.	1/19/2010	pp. 1-8
4.	Jersey Central Power & Light, a FirstEnergy Company	2041	Homestead Village L.L.C.	\$2,862.00	General Unsecured	This claim was untimely filed.	9/1/2010	pp. 1-8
5.	Marin Municipal Water District	1276	Unknown	\$3,297.35	General Unsecured	The claimant did not list a Debtor in its proof of	1/19/2010	

No.	Claimant	Untimely Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Claim Filing Date	Objection Page Reference
						claim form. To the extent this claim is filed against a Debtor other than ESI, this claim was untimely filed.		
6.	Penelope Zeller	1239	ESA P Portfolio L.L.C.	\$320,000.00	General Unsecured	This claim was untimely filed.	1/18/2010	pp. 1-8

EXHIBIT 2

Satisfied Claims to be Disallowed and Expunged in Their Entirety

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
1.	AmerenUE	19	Extended Stay Inc.	\$20,225.61	General Unsecured	The claim was filed against Extended Stay Hotels, LLC. It was recorded incorrectly in the register. According to information provided by the Debtors, this claim was satisfied in the ordinary course.	pp. 1-8
2.	Columbia Gas of Ohio Inc.	181	Extended Stay Hotels L.L.C.	\$2,609.63	General Unsecured	Pursuant to the information provided to the Trustee by the Debtors, this claim was paid in the ordinary course of business.	pp. 1-8
3.	Columbia Gas of Virginia, Inc	201	Extended Stay Hotels L.L.C.	\$1,408.79	General Unsecured	Pursuant to the information provided to the Trustee by the Debtors, this claim was paid in the ordinary course of business.	pp. 1-8
4.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
5.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
6.	Google Inc.	160	Extended Stay Inc.	\$182,603.26	General Unsecured	This claim was filed against "Extended Stay,	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						Inc. consolidated cases.” Consistent with the Plan, neither the Trustee nor the Trust have any obligation to object to claims of ESI. To the extent this claim is filed against a Debtor other than ESI, this claim was satisfied in the ordinary course of business.	
7.	HVM LLC	686	ESH/Homestead Portfolio L.L.C.	Unliquidated	General Unsecured	Pursuant to the information provided to the Trustee by the Debtors, this claim was paid in the ordinary course of business.	pp. 1-8
8.	Kevin McDougall	626	Homestead Village L.L.C.	Unliquidated	General Unsecured	The agreement which allegedly provides the basis for this claim was assumed by the Reorganized Debtors. Pursuant to the Confirmation Order, any obligations have been or will be fulfilled in the ordinary course of business.	pp. 1-8
9.	Lancashire Insurance Co Ltd	588	Extended Stay Hotels L.L.C.	Unliquidated	General Unsecured	This claim was filed with respect to obligations under certain insurance	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						<p>agreements. In accordance with the Confirmation Order, any obligations relating to the insurance agreements were assumed by the Reorganized Debtors and will be fulfilled in the ordinary course of business.</p>	
10.	Las Vegas Valley Water District	313	Extended Stay Inc.	\$8,151.47	General Unsecured	<p>This claim was filed against Extended Stay Inc. et al. Consistent with the Plan, neither the Trust nor the Trustee have any obligation to object to claims against ESI. To the extent this claim is determined to be filed against a debtor other than ESI, according to information provided by the Debtors, this claim was satisfied in the ordinary course.</p>	pp. 1-8
11.	Long Island Lighting Company dba LIPA	188	Extended Stay Inc.	\$8,448.15	General Unsecured	<p>This claim was filed against Extended Stay Inc. et al. Consistent with the Plan, neither the Trust nor the Trustee have any obligation</p>	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						to object to claims against ESI. To the extent this claim is determined to be filed against a debtor other than ESI, according to information provided by the Debtors, this claim was satisfied in the ordinary course.	
12.	Manufacturers and Traders Trust Company	418	Extended Stay Inc.	\$8,566,356.88, plus interest, fees, costs and expenses	General Unsecured	Pursuant to the Confirmation Order and ESI Settlement Agreement, the Indenture Trustee was paid \$4 million on the effective date of the Plan. The Indenture Trustee was given a claim against ESI in the amount of \$5.5 million (the "Reduced Indenture Trustee Claim") and was made a litigation trust beneficiary. The Reduced Indenture Trustee Claim shall be treated as set forth in the Trust Agreement. The Trustee objects to the extent that the claimant is seeking	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						a recovery that is inconsistent with the Plan, ESI Settlement Agreement or the Trust Agreement.	
13.	Microsoft Corporation and Microsoft Licensing GP	322	Extended Stay Inc.	\$18,102.03	General Unsecured	<p>This claim was filed against Extended Stay Inc. et al. Consistent with the Plan, neither the Trust nor the Trustee have any obligation to object to claims against ESI. To the extent this claim is determined to be filed against a debtor other than BSI, according to information provided by the Debtors, \$2,399.63 of this claim was satisfied in the ordinary course.</p> <p>Further, the agreement which allegedly provides the basis for this claim was assumed by the Reorganized Debtors. Pursuant to the Confirmation Order, any obligations have been or will be fulfilled in the ordinary course of business.</p>	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						Moreover, insufficient documentation exists to support the balance of the claim.	
14.	Public Service Electric and Gas Company	256	ESA P Portfolio Operating Lessee Inc.	\$100,679.64	General Unsecured	Pursuant to information provided to the Trustee by the Debtors, this claim was satisfied in the ordinary course of business.	pp. 1-8
15.	Robert Micklash	1144	Extended Stay Hotels L.L.C.	Unliquidated	General Unsecured	The agreement which allegedly provides the basis for this claim was assumed by the Reorganized Debtors. Pursuant to the Confirmation Order, any obligations have been or will be fulfilled in the ordinary course of business.	pp. 1-8
16.	Southwestern Public Service Company	192	Extended Stay Inc.	\$2,968.98	General Unsecured	This claim was filed against Extended Stay Inc. et al. Consistent with the Plan, neither the Trust nor the Trustee have any obligation to object to claims against ESI. To the extent this claim is determined to be filed against a	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						debtor other than ESI, according to information provided by the Debtors, this claim was satisfied in the ordinary course.	
17.	Waste Industries	1997	Extended Stay Inc.	\$1,627.09	General Unsecured	This claim was filed against Extended Stay Inc. et al. Consistent with the Plan, neither the Trust nor the Trustee have any obligation to object to claims against ESI. To the extent this claim is determined to be filed against a debtor other than ESI, according to information provided by the Debtors, this claim was satisfied in the ordinary course.	pp. 1-8
18.	Zurich American Insurance Company and its affiliates	15	Extended Stay Hotels L.L.C.	Unliquidated	General Unsecured	This claim was filed with respect to obligations under certain insurance agreements. In accordance with the Confirmation Order, any obligations relating to the insurance agreements were Reorganized assumed by the	pp. 1-8

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						Debtors and will be fulfilled in the ordinary course of business.	

EXHIBIT 3

**No Liability or Reduced Liability Claims to be Disallowed and Expunged
 in Their Entirety or Modified and Allowed in a Reduced Amount**

No.	Claimant	Claim To Be Expunged or Modified	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
1.	Capital One Bank USA NA by American InfoSource LP as agent	329	ESH/Homestead Portfolio L.L.C.	\$6,728.70	General Unsecured	This claim was not filed against any of the Debtors and appears to be completely unrelated to the Debtors' cases. This claim appears to be against a debtor named Carla M. Conde.	pp. 1-8
2.	Lydecker Lee Behar Berga &	949	Extended Stay Inc.	\$21,569.79	General Unsecured	This claim was filed against "Extended Stay, Inc. consolidated cases." Consistent with the Plan, neither the Trustee nor the Trust have any obligation to object to claims of ESI. To the extent this claim is filed against a Debtor other than ESI, the supporting documentation made available to the Trustee only supports a claim in the amount of \$12,522.46. Therefore, the claim should be reduced to	pp. 1-8

No.	Claimant	Claim To Be Expunged or Modified	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						\$12,522.46.	
3.	Max Marechaux	441	ESA Canada Operating Lessee Inc.	Unliquidated	General Unsecured	The claimant has not been sued. Accordingly, the Plan Debtors have not incurred any indemnification liability and there is no basis for the claim. Therefore, the claim should be disallowed and expunged in its entirety.	pp. 1-8
4.	Micros Systems, Inc.	87	ESA P Portfolio Operating Lessee Inc.	\$2,451.20	General Unsecured	This claim does not reflect a payment made on July 8, 2009 in the amount of \$850.00. Therefore, the claim should be reduced to \$1,601.20.	pp. 1-8
5.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
6.	Thomson Reuters Property Tax Services	614	Extended Stay Inc.	\$518,861.00	General Unsecured	This claim was filed against "Extended Stay, Inc. consolidated cases." Consistent with the Plan, neither the Trustee nor the Trust have any obligation to object to claims of ESI. To the extent this claim is filed against a Debtor other than ESI, the	pp. 1-8

No.	Claimant	Claim To Be Expunged or Modified	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
						supporting documentation made available to the Trustee only supports a claim in the amount of \$293,092.00. Therefore, the claim should be reduced to \$293,092.00.	

EXHIBIT 4

Insufficiently Documented Claims to be Disallowed and Expunged in Their Entirety

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
1.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
2.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
3.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
4.	<u>This Claim has been withdrawn and removed from this Exhibit.</u>						
5.	Emmanuel Kwaku	1458	Extended Stay Inc. ESA Properties, L.L.C.	Unliquidated	General Unsecured	The claim does not include sufficient documentation to determine its validity.	pp. 1-5, 7-8
6.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
7.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
8.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
9.	John Cambiotis	1443	ESA Operating Lessee Inc.	\$250,000.00	General Unsecured	The claim does not include sufficient documentation to determine its validity.	pp. 1-5, 7-8
10.	<u>This Claim has been resolved and removed from this Exhibit.</u>						
11.	<u>This Claim has been resolved and removed from this Exhibit.</u>						

No.	Claimant	Claim To Be Expunged	Debtor Name	Asserted Claim Amount	Nature of Asserted Claim	Basis for Objection	Objection Page Reference
12.	Kevin McDougall	815	Extended Stay Hotels L.L.C.	Unliquidated	General Unsecured	The claim does not include sufficient documentation to determine its validity.	pp. 1-5, 7-8
13.	Naji Hamad	586	ESA TX Properties L.P.	Unliquidated	General Unsecured	The claim does not include sufficient documentation to determine its validity.	pp. 1-5, 7-8
14.	Penelope Zeller	1233	ESA P Portfolio L.L.C.	\$320,000	General Unsecured	The claim does not include sufficient documentation to determine its validity.	pp. 1-5, 7-8
15.	<u>This Claim has been resolved and removed from this Exhibit.</u>						