

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FOOD52, INC.,¹

Debtor.

Chapter 11

Case No. 25-12277 (LSS)

Ref. Docket No. 3

**ORDER APPOINTING KURTZMAN CARSON CONSULTANTS, LLC
DBA VERITA GLOBAL AS CLAIMS AND NOTICING AGENT,
EFFECTIVE AS OF THE PETITION DATE**

Upon consideration of the application (the “**Section 156(c) Application**”)² of the above-captioned debtor and debtor in possession (the “**Debtor**”) for the entry of an order (this “**Order**”) appointing Kurtzman Carson Consultants, LLC dba Verita Global (“**Verita**”) as the claims and noticing agent (the “**Claims and Noticing Agent**”) in this chapter 11 case, effective as of the Petition Date, to, among other things, (a) distribute required notices to parties in interest, (b) receive, maintain, docket, and otherwise administer the proofs of claim filed in this chapter 11 case, and (c) provide such other administrative services as required by the Debtor that would fall within the purview of services to be provided by the Clerk’s office; and upon the First Day Declaration and the Gershbein Declaration; and upon the statements of counsel made in support of the relief requested in the Section 156(c) Application at the hearing before this Court; and it appearing that this Court has jurisdiction to consider the Section 156(c) Application in accordance

¹ The Debtor in this chapter 11 case is Food52, Inc. and the last four digits of the Debtor’s federal tax identification number are 2604. For the purpose of this chapter 11 case, the Debtor’s service address is 1 Dock 72 Way, 13th Floor, Brooklyn, New York 11205.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Section 156(c) Application.



with 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Application is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having reviewed the Application and having heard the statements in support of the relief requested in the Application at a hearing before this Court; and it appearing that the relief requested in the Application and provided for herein is in the best interest of the Debtor, its estate, and its creditors, and is necessary to avoid immediate and irreparable harm to the Debtor and its estate, as contemplated by Bankruptcy Rule 6003(b); and after due deliberation and sufficient cause appearing therefore, **IT IS HEREBY ORDERED THAT:**

1. The Section 156(c) Application is GRANTED as set forth herein.
2. Notwithstanding the terms of the Services Agreement attached to the Section 156(c) Application, the Section 156(c) Application is granted solely as set forth in this Order and solely with respect to the Claims Management and Noticing services set forth in the Services Schedule attached to the Services Agreement.
3. Pursuant to 28 U.S.C. § 156(c), section 105(a) of the Bankruptcy Code, Bankruptcy Rule 2002, and Local Rule 2002-1(e), the Debtor is authorized to retain Verita as Claims and Noticing Agent in this chapter 11 case, effective as of the Petition Date, under the terms of the Services Agreement, and Verita is authorized and directed to perform the Claims and Noticing Services and to receive, maintain, record, and otherwise administer the proofs of claim filed in this chapter 11 case, and perform all related tasks as set forth in the Section 156(c) Application.
4. Verita shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in this chapter 11 case, and is authorized and directed to maintain the official Claims Register for the Debtor, to provide public access to every

proof of claim with attachments, if any, without charge, unless otherwise ordered by this Court, and to provide the Clerk with a certified duplicate thereof upon request of the Clerk.

5. Verita is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim.

6. Verita is authorized to take such other actions as required to comply with all duties set forth in the Section 156(c) Application and this Order.

7. Verita shall comply with all requests of the Clerk and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

8. Without further order of this Court, the Debtor is authorized to compensate Verita in accordance with the terms and conditions of the Services Agreement upon receipt of reasonably detailed monthly invoices setting forth the services provided by Verita and the rates charged for each, and to reimburse Verita for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for Verita to file fee applications or otherwise seek Court approval for the compensation of its services and reimbursement of its expenses as the Claims and Noticing Agent.

9. Verita shall maintain records of all services showing dates, categories of services, fees charged, and expenses incurred, and shall serve monthly invoices on the Debtor, the U.S. Trustee, proposed counsel for the Debtor, proposed counsel for any statutory committee, counsel to the DIP Lender (as defined in the *Interim Order (I) Authorizing the Debtor to Obtain Postpetition Financing; (II) Granting Liens and Providing Superpriority Administrative Expense Status; (III) Authorizing Use of Cash Collateral; (IV) Granting Adequate Protection; (V) Modifying the Automatic Stay; (VI) Scheduling a Final Hearing; and (VII) Granting Related Relief*), and any party in interest that specifically requests service of the monthly invoices.

10. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Services Agreement or monthly invoices, and the parties may seek resolution of the matter from this Court if resolution is not achieved.

11. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, Verita's fees and expenses incurred in connection with the Claims and Noticing Services shall be an administrative expense of the Debtor's chapter 11 estate.

12. Verita may apply its retainer to all prepetition invoices, which retainer shall be replenished to the original retainer amount of \$15,000, and thereafter, Verita may hold its retainer under the Services Agreement during this chapter 11 case as security for payment of Verita's final invoice for services rendered and expenses incurred under the Services Agreement.

13. The Debtor is authorized to indemnify the Indemnified Parties (as defined in the Services Agreement) under the terms of the Services Agreement:

- a. The Indemnified Persons shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Services Agreement for services other than the Claims and Noticing Services provided under the Services Agreement, unless such services and the indemnification, contribution, or reimbursement therefor are approved by this Court;
- b. Notwithstanding anything to the contrary in the Services Agreement, the Debtor shall have no obligation to indemnify Indemnified Persons, or provide contribution or reimbursement to any Indemnified Person, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Indemnified Person's gross negligence, willful misconduct, or fraud; (ii) for a contractual dispute in which the Debtor alleges the breach of Indemnified Person's contractual obligations if this Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which Indemnified Person(s) should not receive indemnity, contribution, or reimbursement under the terms of the Retention Agreement as modified by this Order;

- c. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in this chapter 11 case (that order having become a final order no longer subject to appeal) or (ii) the entry of an order closing this chapter 11 case, an Indemnified Person believes that it is entitled to the payment of any amounts by the Debtor on account of the Debtor's indemnification, contribution, and/or reimbursement obligations under the Services Agreement (as modified by this Order), including the advancement of defense costs, Indemnified Person must file an application therefor in this Court, and the Debtor may not pay any such amounts to Indemnified Person before the entry of an order by this Court approving the payment. This paragraph is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses by Indemnified Person for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtor's obligation to indemnify Indemnified Persons. All parties in interest shall retain the right to object to any demand by the Indemnified Persons for indemnification, contribution, or reimbursement.

14. In the event Verita is unable to provide the Claims and Noticing Services, Verita shall immediately notify the Clerk and the Debtor's counsel and cause all original proofs of claim and computer information to be turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtor's counsel.

15. The Debtor may submit a separate retention application, pursuant to section 327 of the Bankruptcy Code and/or any applicable law, for services that are to be performed by Verita but are not specifically authorized by this Order.

16. Verita shall not cease providing claims processing services during this chapter 11 case for any reason, including nonpayment, without an order of this Court.

17. In the event of any inconsistency between the Services Agreement, the Section 156(c) Application, and this Order, this Order shall govern.

18. The limitation of liability section in section IX of the Services Agreement is deemed to be of no force or effect with respect to the services to be provided pursuant to this Order.

19. The Debtor and Verita are authorized to take any and all actions necessary to effectuate the relief granted herein.

20. Notwithstanding any term in the Services Agreement to the contrary, this Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Order.