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Counsel for Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re: : **Chapter 11**
:
HOPEMAN BROTHERS, INC., : **Case No. 24-32428 (KLP)**
:
Debtor. :
:
:
:

MOTION FOR EXPEDITED HEARING ON MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER (I) DEEMING DEBTOR’S INSURANCE RELATED AGREEMENTS AND OTHER CONFIDENTIAL DOCUMENTS FROM PRIOR PROCEEDINGS GOVERNED BY PROTECTIVE ORDER; AND (II) GRANTING RELATED RELIEF

Hopeman Brothers, Inc., the debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”), respectfully represents as follows in support of this motion (the “Motion”):

RELIEF REQUESTED

1. The Debtor hereby seeks entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), setting an expedited hearing on the *Motion of the Debtor for Entry of an Order (I) Deeming Debtor’s Insurance Related Agreements and Other Confidential Documents from Prior Proceedings as Governed by Protective Order; and (II) Granting Related Relief* [Docket No. 225] (the “Motion for Protective Order”)¹ for **September 24, 2024 at 10:00**

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion to Seal.



a.m. (prevailing Eastern Time) (the “Hearing”) and a corresponding objection deadline of **September 23, 2024 at 12:00 p.m. (prevailing Eastern Time)** for parties to file objections to the Motion for Protective Order and this Motion (the “Objection Deadline”).

JURISDICTION AND VENUE

2. United States Bankruptcy Court for the Eastern District of Virginia (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. This is a core proceeding pursuant to 28 U.S.C. § 157, and the Court may enter a final order consistent with Article III of the United States Constitution. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are section 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 9013-1(N) and (O) of the Local Rules of the United States Bankruptcy Court for the Eastern District of Virginia (the “Bankruptcy Local Rules”).

BACKGROUND

4. On September 16, 2024, the Debtor filed the Motion for Protective Order requesting the Court to deem certain (i) confidential prepetition agreements between the Debtor and its applicable insurers, (ii) confidential documents produced in prior arbitration and legal proceedings, and (iii) related documents (collectively, the “Confidential Information”) as governed by the proposed protective order attached thereto as Exhibit B.

5. As described further in the Motion for Protective Order, the Debtor has two pending settlement motions [Docket Nos. 9, 53] presently set for hearing on November 12, 2024 (the “Settlement Motions Hearing”). The Debtor has already received discovery requests and

anticipates that parties-in-interest (collectively, the “Discovery Parties”), including the Official Committee of Unsecured Creditors (the “Committee”), will serve additional discovery requests in advance of the Settlement Motions Hearing. Indeed, there is presently a request for Rule 2004 examination filed by the Committee that requests production of the Confidential Information.

6. The Debtor expects that additional discovery in conjunction with the Settlement Motion will request copies of prior settlement agreements and coverage in place agreements, among other things, to which the Debtor is a party, as well as documents and communications related to the negotiations of such agreements and documents and communications from prior legal proceedings and arbitrations related to these agreements. Most, if not all, of these agreements contain Confidential Information and corresponding confidentiality provisions of differing scope purporting to limit the Debtor’s ability to freely produce such documents. While the Debtor may not have concerns about production and use of the Confidential Information, it anticipates that a number of counterparties to the Confidential Information will object to production and use of the materials absent protection.

7. Accordingly, in light of the above and the upcoming Settlement Motions Hearing, the Debtor seeks prompt consideration of the Motion for Protective Order so that uniformity and efficiency is quickly brought to the governance of the production, use, and handling of the Confidential Information in connection with this chapter 11 case. This, in turn, will avoid undue delay surrounding the Debtor’s production of the Confidential Information in accordance with the terms of the Protective Order. The Debtor hereby requests that this Court enter the Proposed Order granting an expedited hearing on the Motion for Protective Order.

BASIS FOR RELIEF

8. Section 105 of the Bankruptcy Code provides that the Court “may issue any order . . . that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). Bankruptcy Rule 9006(c) provides, in relevant part, that “the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Fed. R. Bankr. P. 9006(c)(1). Bankruptcy Local Rules 9013-1(N) and (O) allow the setting of a hearing on an expedited basis and shortening the notice in connection therewith, respectively, as requested herein.

9. An expedited hearing on the Motion for Protective Order is appropriate under the circumstances because it addresses production issues concerning the Confidential Information the Debtor has been asked to produce, and desires to produce quickly, in relation to the upcoming Settlement Motions Hearing. Further, given the totality of the circumstances, the Debtor submits that shortening the notice period in connection with the expedited hearing and setting the Objection Deadline is appropriate. The Debtor submits that it is necessary and appropriate for the Court to allow the Motion for Protective Order to be heard at the Hearing.

NOTICE

10. Notice of this Motion will be given to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) counsel to the Committee; (c) counsel to the Chubb Settling Insurers; (d) counsel to the Certain Settling Insurers that are parties to the settlement agreement that is the subject of the Certain Settling Insurers Settlement Motion; (e) the counterparties to the confidential agreements listed on Exhibit A to the Protective Order; and (f) all parties who have requested or who are required to receive notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, under the circumstances, no other or further notice is required.

WHEREAS, the Debtor requests that the Court enter the Proposed Order granting an expedited hearing on the Motion for Protective Order and such other relief as this Court determines just and proper.

Dated: September 16, 2024
Richmond, Virginia

/s/ Henry P. (Toby) Long, III

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Counsel for the Debtor and Debtor in Possession

CERTIFICATION

Pursuant to Bankruptcy Local Rule 9013-1(N), I certify that the Debtor:

1. has carefully examined this matter and concluded that there is a true need for an emergency hearing.
2. has not created the emergency through the lack of diligence.
3. has made a *bona fide* effort to resolve the matter without a hearing.

/s/ Henry P. (Toby) Long, III
Henry P. (Toby) Long, III

Exhibit A

Proposed Order

HUNTON ANDREWS KURTH LLP

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Counsel for Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	:	Chapter 11
	:	
HOPEMAN BROTHERS, INC.,	:	Case No. 24-32428 (KLP)
	:	
Debtor.	:	
	:	
	:	

**ORDER SETTING AN EXPEDITED HEARING ON
MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER (I) DEEMING
DEBTOR’S INSURANCE RELATED AGREEMENTS AND OTHER CONFIDENTIAL
DOCUMENTS FROM PRIOR PROCEEDINGS AS GOVERNED BY PROTECTIVE
ORDER; AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion to Expedite”)¹ of the above-captioned debtor in the above-captioned chapter 11 case (the “Debtor”), for entry of an order (this “Order”) setting an expedited hearing on the Motion for Protective Order and granting related relief; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent

¹ Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and the Court having determined that there is good and sufficient cause for the relief granted in this order, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

1. The relief requested in the Motion is hereby granted.
2. A hearing shall be held on **September 24, 2024 at 10:00 a.m. (prevailing Eastern Time)** to hear and consider the Motion for Protective Order and the Motion to Expedite (collectively, the "Motions").
3. The deadline by which parties must file objections to the Motions is **September 23, 2024 at 12:00 p.m. (prevailing Eastern Time)**.
4. The Debtor is authorized to take all actions necessary to implement the relief granted in this Order.
5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: _____, 2024
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Henry P. (Toby) Long, III

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Counsel for the Debtor and Debtor in Possession

**CERTIFICATION OF ENDORSEMENT
UNDER BANKRUPTCY LOCAL RULE 9022-1(C)**

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III
Henry P. (Toby) Long, III