

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

In re:  HOPEMAN BROTHERS, INC.,  Debtor.	Chapter 11  Case No. 24-32428 (KLP)
OFFICIAL COMMITTEE OF UNSECURED CREDITORS,  Appellant,  v.  HOPEMAN BROTHERS, INC.,  Appellee.	Civil Action No. 3:24-cv-00717 (DJN)

**REPLY IN SUPPORT OF MOTION OF THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS FOR LEAVE TO APPEAL FROM  
SECOND INTERIM ORDER EXTENDING THE AUTOMATIC STAY**

**CAPLIN & DRYSDALE, CHARTERED**  
Kevin C. Maclay (admitted *pro hac vice*)  
Todd E. Phillips (admitted *pro hac vice*)  
Jeffrey A. Liesemer (VSB No. 35918)  
Nathaniel R. Miller (admitted *pro hac vice*)  
1200 New Hampshire Avenue NW, 8<sup>th</sup> Floor  
Washington, DC 20036  
Telephone: (202) 862-5000  
Facsimile: (202) 429-3301  
kmaclay@capdale.com  
tphillips@capdale.com  
jliesemer@capdale.com  
nmiller@capdale.com

*Counsel for the Official  
Committee of Unsecured Creditors*

**MORGAN, LEWIS & BOCKIUS LLP**  
Brady Edwards (admitted *pro hac vice*)  
1000 Louisiana Street, Suite 4000  
Houston, TX 77002-5006  
Telephone: (713) 890-5000  
Facsimile: (713) 890-5001  
brady.edwards@morganlewis.com  
  
W. Brad Nes (admitted *pro hac vice*)  
1717 Main Street, Suite 3200  
Dallas, TX 75201-7347  
Telephone: (214) 466-4000  
Facsimile: (214) 466-4001  
brad.nes@morganlewis.com

-and-



Jeffrey S. Raskin (admitted *pro hac vice*)  
One Market, Spear Street Tower, 28<sup>th</sup> Floor  
San Francisco, CA 94105-1596  
Telephone: (415) 442-1000  
Facsimile: (415) 442-1001  
jeffrey.raskin@morganlewis.com

David Cox (admitted *pro hac vice*)  
300 South Grand Avenue, 22<sup>nd</sup> Floor  
Los Angeles, CA 90071-3132  
Telephone: (213) 612-7315  
Facsimile: (213) 612-2501  
david.cox@morganlewis.com

*Special Insurance Counsel for the Official  
Committee of Unsecured Creditors*

Dated: October 29, 2024

**TABLE OF CONTENTS**

I. The Committee Has Appellate Standing..... 1

II. The Stay Order Is Final and Immediately Appealable..... 2

III. The Stay Order Is Immediately Appealable Under the Collateral Order Doctrine..... 3

    A. The Stay Order Conclusively Determines the Disputed Question..... 3

    B. The Stay Order Resolves an Important Issue Separate from the Merits of the Chapter 11 Case..... 3

    C. The Stay Order Warrants Immediate Appellate Review ..... 4

    D. The Stay Order Would Be Effectively Unreviewable on Appeal from Final Judgment..... 4

IV. Alternatively, the Court Should Grant the Committee Leave to Appeal..... 5

    A. The Committee’s Appeal Presents Controlling Questions of Law ..... 5

    B. There Are Substantial Grounds for Difference of Opinion ..... 6

    C. The Committee’s Appeal May Materially Advance the Termination of Litigation ..... 7

    D. Exceptional Circumstances Are Present Here ..... 8

Conclusion ..... 8

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>A.H. Robins Co. v. Piccinin</i> , 788 F.2d 994 (4th Cir. 1986) .....	6
<i>In re ABC Automotive Products Corp.</i> , 210 B.R. 437 (Bankr. E.D. Pa. 1997) .....	2
<i>B.R. v. F.C.S.B.</i> , No. 119CV00917RDATCB, 2020 WL 12432947 (E.D. Va. Nov. 9, 2020) .....	8
<i>Barcelona Capital, LLC v. Neno Cab Corp.</i> , 648 B.R. 578 (E.D.N.Y. 2023) .....	5
<i>In re Bestwall LLC</i> , No. 3:20-CV-105-RJC, 2022 WL 68763 (W.D.N.C. Jan. 6, 2022), <i>aff'd</i> , 71 F.4th 168 (4th Cir. 2023), <i>cert. denied</i> , 144 S. Ct. 2519, <i>and cert. denied</i> , 144 S. Ct. 2520 (2024).....	1, 2
<i>In re Boxall</i> , 188 B.R. 198 (E.D. Va. 1995).....	3
<i>Bailey ex rel. Brown v. Exxon Mobil Corp.</i> , 76 So. 3d 53 (La. Ct. App. 2011).....	4
<i>COMM 2013 CCRE12 Crossing Mall Road, LLC v. Tara Retail Group, LLC</i> , No. 1:17CV67, 2017 WL 2837015 (N.D. W. Va. June 30, 2017) .....	6
<i>De Beers Consolidated Mines v. United States</i> , 325 U.S. 212 (1945).....	6, 8
<i>In re Elkins Energy Corp.</i> , 7 B.R. 971 (W.D. Va. 1980) .....	2
<i>Fung Retailing Ltd. v. Toys “R” Us, Inc.</i> , 593 B.R. 724 (E.D. Va. 2018).....	2
<i>Warfle ex rel. Guffey v. Secretary of Health &amp; Human Services</i> , 92 Fed. Cl. 361 (2010) .....	4
<i>In re Landbank Equity Corp.</i> , 973 F.2d 265 (4th Cir. 1992) .....	6
<i>McFarlin v. Conseco Services, LLC</i> , 381 F.3d 1251 (11th Cir. 2004) .....	5

*Phyllis Schlafly Revocable Trust v. Cori*,  
924 F.3d 1004 (8th Cir. 2019) .....3

*In re Pro-Fit Holdings Ltd.*,  
391 B.R. 850 (Bankr. C.D. Cal. 2008).....3

*Puerto Rico Aqueduct & Sewer Authority v. Metcalf & Eddy, Inc.*,  
506 U.S. 139 (1993).....3

*Real Truth About Obama, Inc. v. Federal Election Commission*,  
575 F.3d 342 (4th Cir. 2009), *vacated*, 559 U.S. 1089, *adhered to in relevant part sub nom. The Real Truth About Obama, Inc. v. F.E.C.*, 607 F.3d 355 (4th Cir. 2010) (per curiam) .....7

*Southern Pacific Transportation Co. v. Voluntary Purchasing Groups, Inc.*,  
227 B.R. 788 (E.D. Tex. 1998).....2

*In re Teknek, LLC*,  
343 B.R. 850 (Bankr. N.D. Ill. 2006) .....6

*Thomas v. Maximus, Inc.*,  
No. 3:21CV498 (DJN), 2022 WL 1482008 (E.D. Va. May 10, 2022).....6

*In re Western Pacific Airlines, Inc.*,  
219 B.R. 575 (D. Colo. 1998).....1, 2

**Statutes**

11 U.S.C. § 362(a)(1).....7

11 U.S.C. § 362(a)(3).....7

11 U.S.C. § 1103.....1

28 U.S.C. § 1292(b) .....8

Appellant, the Official Committee of Unsecured Creditors (“**Committee**”) of Hopeman Brothers, Inc. (“**Debtor**”), by and through its undersigned counsel, hereby submits this reply in support of its motion for leave to appeal, ECF No. 2, and the memorandum of points and authorities in support thereof, ECF No. 2 (“**Memorandum**”),<sup>1</sup> and in response to the Debtor’s objection thereto, ECF No. 4 (“**Objection**”).

For the reasons stated below, this Court should overrule the Objection and determine that the Stay Order is immediately appealable as a final order or under the collateral order doctrine, or, alternatively, grant the Committee leave to pursue an interlocutory appeal as requested herein.

### **REPLY ARGUMENT**

#### **I. THE COMMITTEE HAS APPELLATE STANDING**

1. As a threshold matter, the Debtor contends that the Committee lacks bankruptcy appellate standing (Obj. ¶¶ 13-17), but the argument is without merit. As the Debtor concedes, “standing to appeal as a party aggrieved may arise from a party’s official duty to enforce the bankruptcy law in the public interest.” *Id.* ¶ 14. “Courts have also held that committees appointed pursuant to 11 U.S.C. § 1103, serve a ‘watchdog’ function and enjoy unique rights and responsibilities, including the ability to appeal orders that run afoul of those rights and responsibilities.” *In re Bestwall LLC*, No. 3:20-CV-105-RJC, 2022 WL 68763, at \*4 (W.D.N.C. Jan. 6, 2022) (citation omitted), *aff’d*, 71 F.4th 168 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 2519, *and cert. denied*, 144 S. Ct. 2520 (2024). Those duties include “perform[ing] such other services as are in the interest of those represented.” *In re W. Pac. Airlines, Inc.*, 219 B.R. 575, 577-78 (D. Colo. 1998) (alteration in original) (citation omitted). Here, the Committee is fulfilling its “watchdog” role by appealing the Stay Order, which is the product of the Debtor’s overreaching

---

<sup>1</sup> Capitalized terms not defined herein have the same meanings as in the Memorandum.

efforts to block asbestos creditors from pursuing liability insurance coverage that the Debtor itself has disclaimed any interest in. *See id.*; *Bestwall*, 2022 WL 68763, at \*4.

2. Other courts have found that creditors' committees have standing to bring appeals as a "person aggrieved" when the "pecuniary interests of the Committee's members are adversely affected by entry of the order" being appealed. *E.g.*, *S. Pac. Transp. Co. v. Voluntary Purchasing Grps., Inc.*, 227 B.R. 788, 791-92 (E.D. Tex. 1998); *see also In re Elkins Energy Corp.*, 7 B.R. 971, 973 n.4 (W.D. Va. 1980). The Committee's role is "to represent and protect the interests of the unsecured creditors . . . throughout the entire bankruptcy case." *In re ABC Auto. Prods. Corp.*, 210 B.R. 437, 441 (Bankr. E.D. Pa. 1997) (citation omitted). Through this appeal, the Committee seeks to prevent the Debtor from impairing those creditors' state-law rights to pursue direct actions against Liberty. These direct actions would not affect the Debtor's bankruptcy estate because the Debtor has disclaimed any interest in the Liberty insurance coverage. Mem. ¶ 3. Therefore, the Committee has bankruptcy appellate standing.

## **II. THE STAY ORDER IS FINAL AND IMMEDIATELY APPEALABLE**

3. The Debtor contends that the "interim" Stay Order is not final because it will "expire on its own unless the Debtor seeks to extend it" and because "the Debtor fully expects further litigation on it." Obj. ¶ 19. But the Debtor's assertions are contradicted by this Court's ruling. In *Fung Retailing Ltd. v. Toys "R" Us, Inc.*, this Court found the bankruptcy court's preliminary injunction to be a final appealable order, despite being set to expire after three months and "subject to further extension" by the bankruptcy court. 593 B.R. 724, 730 (E.D. Va. 2018). This Court should similarly determine here that the Stay Order, despite its "interim" label, is final and immediately appealable.

### III. THE STAY ORDER IS IMMEDIATELY APPEALABLE UNDER THE COLLATERAL ORDER DOCTRINE

#### A. The Stay Order Conclusively Determines the Disputed Question

4. The Debtor argues that the Stay Order is not appealable under the collateral order doctrine because it “merely delays proceedings” and is not a conclusive determination. Obj. ¶ 26.<sup>2</sup> But this is the incorrect test. In this district, an order conclusively determines a disputed question if it is not “tentative, informal or incomplete.” *In re Boxall*, 188 B.R. 198, 201-02 (E.D. Va. 1995) (citation omitted). There is nothing “tentative, informal or incomplete” about the Stay Order because it *conclusively bars* asbestos creditors with direct action rights against Liberty from exercising those rights for six months. *See id.* And those six months can never be restored to those asbestos victims even if this Court later determines that the Stay Order was granted in error.

#### B. The Stay Order Resolves an Important Issue Separate from the Merits of the Chapter 11 Case

5. An issue is collateral to the merits of an action when its resolution would have no impact on the ultimate disposition of the case at hand. *See P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 145 (1993). The Debtor’s argument that the “action” in this case is its Stay Motion (Obj. ¶ 27) lacks merit.

6. The automatic stay does not permanently adjust the rights and obligations of the parties to the bankruptcy; rather, that is the purpose of the chapter 11 plan. *See In re Pro-Fit Holdings Ltd.*, 391 B.R. 850, 862 (Bankr. C.D. Cal. 2008). The Debtor filed for bankruptcy to monetize its remaining asbestos-related insurance coverage and to liquidate under a confirmed

---

<sup>2</sup> The Debtor’s reliance on *Phyllis Schlafly Revocable Tr. v. Cori*, 924 F.3d 1004 (8th Cir. 2019) is misplaced. The Eighth Circuit found the order at issue to be merely a delay because the district court intended to hear the trademark infringement claims once the state court proceedings had concluded. *Id.* at 1011. Here, in contrast, the Stay Order is *blocking* state-court direct actions against Liberty from proceeding.



chapter 11 plan.<sup>3</sup> It did not file for bankruptcy to “extend” the automatic stay to direct actions against Liberty. The Debtor’s chapter 11 case is therefore the “action” under the collateral order doctrine, and the confirmability of a chapter 11 plan goes to the ultimate merits of that action. The automatic stay is simply unrelated to whether a liquidation plan is confirmable. The Stay Order thus raises an important issue separate from the merits of this chapter 11 case.

**C. The Stay Order Warrants Immediate Appellate Review**

7. The Debtor argues that the Stay Order is not “sufficiently important to warrant immediate review” because it “does not take away anyone’s rights and it does not foreclose any future arguments” (Obj. ¶ 30), but this is incorrect. Claimants suffering from asbestos-induced cancers face substantial prejudice if their ability to seek recompense from Liberty is paused. Many of these claimants will not survive until the end of this bankruptcy. Although their families may pursue claims for the same underlying asbestos-related injuries, their recoveries may be considerably lessened. *See Bailey ex rel. Brown v. Exxon Mobil Corp.*, 76 So. 3d 53, 54-55 (La. Ct. App. 2011) (finding that punitive damages are not recoverable for wrongful death actions). Courts generally find that an order is effectively unreviewable on later appeal where “practical exigencies or irreparable harm” necessitate immediate collateral review. *Warfle ex rel. Guffey v. Sec’y of Health & Hum. Servs.*, 92 Fed. Cl. 361, 366 (2010). These exist here, necessitating immediate appellate review.

**D. The Stay Order Would Be Effectively Unreviewable on Appeal from Final Judgment**

8. The Debtor contends that a ruling that the Stay Order “is not immediately appealable does not make it effectively unreviewable.” Obj. ¶ 32. The Debtor is putting form

---

<sup>3</sup> Declaration of Christopher Lascell in Support of Chapter 11 Petition and First Day Pleadings of Hopeman Brothers, Inc. ¶ 42, *In re Hopeman Bros., Inc.*, No. 24-32428 (Bankr. E.D. Va. June 30, 2024), ECF No. 8.

over substance. Under the Debtor's logic, if the Bankruptcy Court, instead of entering a "final" stay order, were to extend or renew the Stay Order for six-month intervals, the Stay Order would never be subject to appellate review. For all these reasons, the Stay Order is immediately appealable under the collateral order doctrine.

#### **IV. ALTERNATIVELY, THE COURT SHOULD GRANT THE COMMITTEE LEAVE TO APPEAL**

##### **A. The Committee's Appeal Presents Controlling Questions of Law**

9. The Debtor erroneously asserts that the Committee is not presenting questions of law because whether the automatic stay should be extended based on "unusual circumstances" is a "fact-based" and "fact-intensive" determination. Obj. ¶¶ 36-37. But the Debtor distorts the issues that the Committee is presenting for review. The Committee's questions are threshold ones, essentially asking whether the "unusual circumstances" test can be applied *in the first place* when the Debtor is liquidating under chapter 11 and is therefore ineligible for a chapter 11 discharge (*i.e.*, permanent injunctive relief). *See* Mem. ¶¶ 37-38.

10. Moreover, both issues are questions of law because each of them is "stated at a high enough level of abstraction to lift the question out of the details of the evidence or facts of a particular case and give it general relevance to other cases in the same area of law." *McFarlin v. Conseco Servs., LLC*, 381 F.3d 1251, 1259 (11th Cir. 2004). This Court can resolve the two issues presented by the Committee "quickly and cleanly without having to study the record"<sup>4</sup> because it need only glance at the record to ascertain the undisputed fact that this case is a liquidation. The Debtor's efforts to recast the Committee's questions of law as "fact-intensive" inquiries should be rejected.

---

<sup>4</sup> *Barcelona Cap., LLC v. Neno Cab Corp.*, 648 B.R. 578, 586 (E.D.N.Y. 2023) (citation omitted).

**B. There Are Substantial Grounds for Difference of Opinion**

11. A “substantial ground [for difference of opinion] must arise out of a genuine doubt as to whether the . . . [bankruptcy] court applied the correct legal standard<sup>5</sup> or “when the law remains unclear in the controlling jurisdiction and other courts have issued conflicting decisions.”<sup>6</sup>

12. In *De Beers Consolidated Mines v. United States*, the Supreme Court made clear that a court cannot provide preliminary injunctive relief if it cannot grant equivalent injunctive relief on a permanent basis. 325 U.S. 212, 216, 220 (1945). It is irrelevant that *De Beers* is an antitrust case and not a bankruptcy (Obj. ¶ 40), for the Supreme Court in *De Beers* was espousing general principles of equity. And it is well-established that bankruptcy courts are courts of equity. *E.g.*, *In re Landbank Equity Corp.*, 973 F.2d 265, 271 (4th Cir. 1992) (citation omitted). Indeed, the court in *In re Teknek, LLC* made it clear that *De Beers* and its progeny are relevant and applicable to bankruptcy cases. 343 B.R. 850, 871 (Bankr. N.D. Ill. 2006).

13. The Debtor tries to distinguish *Teknek* on the basis that it was a chapter 7 liquidation, while the Debtor’s case is a chapter 11 liquidation (Obj. ¶ 42), but fails to explain why that difference renders *Teknek* inapposite (because it does not). Instead, *Teknek* on the one hand and the Stay Order on the other hand demonstrate that there is substantial ground for difference of opinion on the permissibility of preliminary injunctive relief staying claims against nondebtors.<sup>7</sup> This conflicting authority is sufficient to establish substantial ground for difference of opinion. *See Thomas*, 2022 WL 1482008, at \*5; *COMM*, 2017 WL 2837015, at \*4.

---

<sup>5</sup> *Thomas v. Maximus, Inc.*, No. 3:21CV498 (DJN), 2022 WL 1482008, at \*5 (E.D. Va. May 10, 2022) (citation omitted).

<sup>6</sup> *COMM 2013 CCRE12 Crossing Mall Rd., LLC v. Tara Retail Grp., LLC*, No. 1:17CV67, 2017 WL 2837015, at \*4 (N.D. W. Va. June 30, 2017) (citation omitted).

<sup>7</sup> The Fourth Circuit’s *dictum* in a reorganization about extending the stay in a liquidation is not “the rule in this Circuit,” as the Debtor suggests. *See* Obj. ¶ 49; *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 1003, 1011 (4th Cir. 1986).

**C. The Committee’s Appeal May Materially Advance the Termination of Litigation**

14. The Debtor asserts that the Committee’s appeal will not advance termination of the litigation because, if this Court rules in the Committee’s favor, “the case will need to be remanded to reconsider the evidence.” Obj. ¶ 51. Not so. The Stay Order would have to be reversed or vacated as to Liberty if, for example, this Court were to hold that preliminary injunctive relief to protect Liberty is unavailable because Liberty is ineligible as a matter of law to equivalent permanent injunctive protection or that the Debtor failed to satisfy the “likelihood of success” element of the traditional injunction standard as a matter of law because it intends to liquidate and not reorganize.<sup>8</sup> There would be no need for remand and no evidence to “reconsider” in light of such a ruling.

15. The Debtor tries to cast aside the traditional injunction standard by asserting that “the Bankruptcy Court also found that sections 362(a)(1) and (a)(3) of the Bankruptcy Code support the relief granted in the Interim Stay Order,” (*id.*), but the argument is unavailing for two reasons. First, § 362(a)(3) does not stay direct actions against Liberty because the Debtor has disclaimed any interest in the Liberty insurance coverage, contending that it released Liberty coverage. Mem. ¶ 3.<sup>9</sup> Thus, direct actions against Liberty would not implicate or affect property of the Debtor’s bankruptcy estate. Second, “extending” the automatic stay to protect Liberty under § 362(a)(1) is unavailable because, in this chapter 11 liquidation, Liberty is not entitled to

---

<sup>8</sup> All four elements of the traditional injunction standard must be satisfied to obtain injunctive relief. *See Real Truth About Obama, Inc. v. Fed. Election Comm’n*, 575 F.3d 342, 345 (4th Cir. 2009), *vacated*, 559 U.S. 1089, *adhered to in relevant part sub nom. The Real Truth About Obama, Inc. v. F.E.C.*, 607 F.3d 355 (4th Cir. 2010) (*per curiam*).

<sup>9</sup> Even though the Debtor believes it has released *its* interest in the Liberty coverage, asbestos claimants across the country, who possess enforceable rights under the applicable policies, have not released *their* interests, which cannot be extinguished or altered by a subsequent bilateral agreement between the Debtor and Liberty. Mem. ¶ 3 & n.4 (citing cases).

equivalent injunctive protection on a permanent basis. *See De Beers*, 325 U.S. at 216, 220; Mem. ¶¶ 37-39.

16. For all the reasons explained above, the Committee has satisfied the statutory requirements for interlocutory review under 28 U.S.C. § 1292(b).

**D. Exceptional Circumstances Are Present Here**

17. The Debtor contends there are no “exceptional circumstances” justifying interlocutory review of the Stay Order (Obj. ¶¶ 5, 34), but its argument fails. First, it is far from clear that “exceptional circumstances” is an independent element outside the three statutory requirements for interlocutory review under § 1292(b). *See, e.g., B.R. v. F.C.S.B.*, No. 119CV00917RDATCB, 2020 WL 12432947, at \*2, \*4 (E.D. Va. Nov. 9, 2020) (granting interlocutory review where the three § 1292(b) requirements were met and acknowledging that “exceptional circumstances” are required but not analyzing it as a separate element). The Committee has satisfied all the § 1292(b) elements for interlocutory review, and the Court should exercise its discretion to grant the Committee leave to appeal. Second, even if it is an independent element, exceptional circumstances exist here. If the Stay Order were not reviewed now, asbestos claimants would be potentially unable to challenge the injunction of their direct claims against Liberty until after this bankruptcy. That would inflict undue delay and irreparable harm on them. *See* Mem. ¶ 30. Here, justice delayed would be justice denied.

**CONCLUSION**

For the reasons explained above and in the Memorandum, this Court should overrule the Debtor’s Objection and allow the Committee’s appeal to proceed.

Respectfully submitted,

**CAPLIN & DRYSDALE, CHARTERED**

/s/ Jeffrey A. Liesemer

Kevin C. Maclay (admitted *pro hac vice*)  
Todd E. Phillips (admitted *pro hac vice*)  
Jeffrey A. Liesemer (VSB No. 35918)  
Nathaniel R. Miller (admitted *pro hac vice*)  
1200 New Hampshire Avenue NW, 8<sup>th</sup> Floor  
Washington, DC 20036  
Telephone: (202) 862-5000  
Facsimile: (202) 429-3301  
kmaclay@capdale.com  
tphillips@capdale.com  
jliesemer@capdale.com  
nmiller@capdale.com

*Counsel for the Official  
Committee of Unsecured Creditors*

**MORGAN, LEWIS & BOCKIUS LLP**

Brady Edwards (admitted *pro hac vice*)  
1000 Louisiana Street, Suite 4000  
Houston, TX 77002-5006  
Telephone: (713) 890-5000  
Facsimile: (713) 890-5001  
brady.edwards@morganlewis.com

W. Brad Nes (admitted *pro hac vice*)  
1717 Main Street, Suite 3200  
Dallas, TX 75201-7347  
Telephone: (214) 466-4000  
Facsimile: (214) 466-4001  
brad.nes@morganlewis.com

Jeffrey S. Raskin (admitted *pro hac vice*)  
One Market, Spear Street Tower, 28<sup>th</sup> Floor  
San Francisco, CA 94105-1596  
Telephone: (415) 442-1000  
Facsimile: (415) 442-1001  
jeffrey.raskin@morganlewis.com

David Cox (admitted *pro hac vice*)  
300 South Grand Avenue, 22<sup>nd</sup> Floor  
Los Angeles, CA 90071-3132  
Telephone: (213) 612-7315  
Facsimile: (213) 612-2501  
david.cox@morganlewis.com

*Special Insurance Counsel for the Official  
Committee of Unsecured Creditors*