

Objection Deadline: July 13, 2022 at 4:00 p.m. (Prevailing Eastern Time)
Hearing Date and Time: July 20, 2022 at 11:00 a.m. (Prevailing Eastern Time)

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Leo T. Crowley
Patrick E. Fitzmaurice
Kwame O. Akuffo

Counsel for GUC Recovery Trustee

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

.....	X	
In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

**GUC RECOVERY TRUSTEE’S MOTION FOR ENTRY
OF AN ORDER AUTHORIZING ABANDONMENT AND
DESTRUCTION OF CERTAIN DOCUMENTS**

William A. Brandt, Jr., in his capacity as trustee (the “**GUC Recovery Trustee**”) of the JCK Legacy GUC Recovery Trust created under the GUC Recovery Trust Agreement (the “**Trust Agreement**”) and the confirmed *First Amended Joint Chapter 11 Plan of Distribution of JCK Legacy Company and its affiliated Debtors and Debtors in Possession* (the “**Plan**”) [ECF No. 879], by and through undersigned counsel, files this motion (the “**Motion**”) and, pursuant to section 554 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6007 of the

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor’s tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (SUZ1). The location of the GUC Recovery Trustee’s service address for purposes of these chapter 11 cases is: 110 East 42 Street, Suite 1818 New York, NY 10017.



Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), seeks entry of an order (the “**Proposed Order**”) substantially in the form attached as **Exhibit A**, authorizing the abandonment and destruction of certain documents as set forth in the Motion.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.
2. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.
4. The predicates for the relief sought herein are section 554 of the Bankruptcy Code, Bankruptcy Rule 6007, and Rule 6007-1 of the Local Rules.

BACKGROUND

A. Overview of Bankruptcy Case

5. On February 13, 2020, The McClatchy Company, a corporation organized under the laws of the state of Delaware, and certain of its affiliates (the “**Debtors**”), filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The chapter 11 cases have been jointly administered for procedural purposes, and some cases remain pending.

6. On September 25, 2020, the Bankruptcy Court entered an order (the “**Confirmation Order**”) confirming the Plan, which became effective on September 30, 2020 (the “**Effective Date**”). The Plan and the Confirmation Order provide for the establishment of the GUC Recovery Trust pursuant to the Trust Agreement on the Effective Date, at which time the GUC Recovery Trustee was appointed to administer the GUC Recovery Trust. Confirmation Order at 11; Trust Agreement, § 2.1; Plan, § 6.20.

7. Under the Trust Agreement, the GUC Recovery Trustee is authorized to represent the Debtors’ estate before any court of competent jurisdiction on matters concerning the GUC

Recovery Trust, Trust Agreement at § 2.2(m) and to take any action that is reasonably necessary to administer the GUC Recovery Trust and the Plan. *Id.* at § 2.2(aa). The GUC Recovery Trustee is also authorized to “to cause the GUC Recovery Trust to abandon or otherwise dispose of” any assets of the GUC Recovery Trust he “believes in good faith . . . has inconsequential value to the GUC Recovery Trust” *Id.* at § 4.4. Although the Trust Agreement does not require that the GUC Recovery Trustee seek Court approval to dispose of the documents in question, given the volume of documents and potential cost of such destruction the GUC Recovery Trustee has deemed it prudent to seek Court approval.

B. Sawin and Becerra Class Action

8. On August 7, 2020, the Court approved the sale of substantially all of the Debtors’ assets to SIJ Holdings, LLC, *see* ECF No. 744, who later changed its corporate name to The McClatchy Company, LLC (“**New McClatchy**”). Under the sale agreement, all documents and information concerning the Debtors were transferred to New McClatchy, including all documents and information concerning *Lorianne Sawin et al. v. The McClatchy Co., et al*, No. 34-2009-00033950-CL-OE-GDS (“**Sawin**”) and *Veronica Becerra et al. v. The McClatchy Co., et al*, No. 08CECG04411 (KAG) (“**Becerra**”, together with Sawin, the “**Class Actions**”).

9. After the GUC Recovery Trustee’s appointment, New McClatchy relinquished to the GUC Recovery Trustee over 1,000 boxes of documents of discovery material and information (the “**Documents**”) relating to the Class Actions. Since December of 2020, the Documents have been stored and maintained in a warehouse by Pacific Records Management on behalf of the GUC Recovery Trustee, pending resolution of proofs of claim filed by the class representatives in each Class Action. *See* ECF Nos. 1162, 1410.

10. On September 17, 2021, the Court entered the *Order Approving the Settlement Agreement Between GUC Recovery Trustee and Settlement Class of Former Newspaper Carriers and Granting Related Relief* [ECF No. 1265], which approved the settlement of Sawin.

11. On June 16, 2022, the Court entered the *Order Approving the Settlement Agreement between GUC Recovery Trustee and Settlement Class of Former Newspaper Carriers and Granting Related Relief* [ECF No. 1474], which approved the settlement of Becerra.

RELIEF REQUESTED

12. Pursuant to section 554 of the Bankruptcy Code, Bankruptcy Rule 6007, and Local Rule 6007-1, the GUC Recovery Trustee seeks entry of the Proposed Order authorizing the abandonment and destruction of the Documents because they are of inconsequential value and not beneficial to the Debtors' estate.

BASIS FOR RELIEF

13. Section 554(a) of the Bankruptcy Code provides that “[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a).” 11 U.S.C. § 554(a); *see also Midlantic Nat. Bank v. N.J. Dep’t of Environmental Protection*, 474 U.S. 494, 507 (1986) (noting that a trustee’s power to abandon property is broad, subject only to state laws or regulations reasonably designed to protect the public health or safety from identifiable hazards”).

14. “Abandonment may not be authorized without the requisite showing that the asset in question was of inconsequential value and benefit to the estate, and without ascertaining that the trustee’s determination to that effect reflect[ed] a business judgment made in good faith, upon a reasonable basis and within the scope of his authority under the Code.” *In re MF Global Inc.*, 535 B.R. 596, 606 (Bankr. S.D.N.Y. 2015) (citations and internal quotation marks omitted).

15. The GUC Recovery Trustee believes in good faith that abandonment and destruction of the Documents is an exercise of sound business judgment. The Class Actions involved issues of whether the newspaper carriers were employees or independent contractors. *See* ECF Nos. 1162, 1410. Accordingly, the Documents might contain Form 1099s and other personal information that raise privacy issues and thus bolsters the GUC Recovery Trustee's decision to dispose of the Documents and avoid the risk of inadvertent disclosure. Currently, the Documents have been stored and maintained in a warehouse pending resolution of proofs of claim filed by the class representatives in Sawin and Becerra. The Court has entered final orders concerning the proofs of claim filed in connection with the Class Actions and thus the Documents are of no value and not beneficial to the Debtors' estate. *See* ECF Nos. 1265, 1474.

16. Absent the relief requested, the GUC Recovery Trustee will continue to incur over \$1,000 per month to store and maintain the Documents in the warehouse. A copy of a recent invoice is attached as **Exhibit B**. The GUC Recovery Trustee should not be required to incur any further costs and thus respectfully requests authorization to abandon and destroy the Documents.

NOTICE

17. Notice of the Motion has been given to all creditors, the Office of the United States Trustee, and parties on the master service list who have agreed to accept service by email. Such notice is sufficient and no other or further notice need be provided.

CONCLUSION

WHEREFORE, the GUC Recovery Trustee respectfully requests that the Court enter the Proposed Order attached as **Exhibit A**: (a) authorizing the abandonment and destruction of the Documents; (b) granting such other and further relief as the Court deems just and proper.

Dated: June 24, 2022
New York, New York

/s/ Leo T. Crowley
PILLSBURY WINTHROP SHAW PITTMAN LLP
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Patrick E. Fitzmaurice
Kwame O. Akuffo
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New York, New York 10019
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kwame.akuffo@pillsburylaw.com

Counsel for GUC Recovery Trustee

Objection Deadline: July 13, 2022 at 4:00 p.m. (Prevailing Eastern Time)
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Counsel for GUC Recovery Trustee

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

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In re:	:	Chapter 11
	:	
JCK LEGACY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (MEW)
	:	
Debtors. ¹	:	(Jointly Administered)
	:	
.....	X	

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that William A. Brandt, Jr., in his capacity as trustee of the JCK Legacy GUC Recovery Trust, filed the *GUC Recovery Trustee’s Motion for Entry of an Order Authorizing Abandonment and Destruction of Certain Documents* (the “**Motion**”) with the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”).

PLEASE TAKE FURTHER NOTICE that any objection to the Motion must be filed on or before **July 13, 2022 at 4:00 p.m. (ET)** (the “**Objection Deadline**”) with the Bankruptcy

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor’s tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (SUZ1). The location of the GUC Recovery Trustee’s service address for purposes of these chapter 11 cases is: 110 East 42 Street, Suite 1818 New York, NY 10017.

Court, Courtroom 617, One Bowling Green, New York, New York 10004. At the same time, you must serve a copy of any objection by the Objection Deadline upon the undersigned counsel to the movant and to:

- (a) The Debtors, JCK Legacy Company, c/o FTI Consulting, Inc., 1201 W. Peachtree Street, NW, Suite 500, Atlanta, Georgia 30309, Attn.: Sean M. Harding (sean.harding@fticonsulting.com);
- (b) Counsel for the Plan Administration Trustee, Skadden, Arps, Slate, Meagher & Flom LLP, One Manhattan West, New York, New York 10001, Attn.: Shana A. Elberg (shana.elberg@skadden.com) and Bram A. Strohlic (bram.strohlic@skadden.com), 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071, Attn.: Van C. Durrer, II (van.durrer@skadden.com), and Destiny N. Almogue (destiny.almogue@skadden.com) and 525 University Avenue, Palo Alto, California 94301 Attn.: Jennifer Madden (jennifer.madden@skadden.com);
- (c) Co-counsel for the Plan Administration Trustee, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119, Attn.: Albert Togut (altogut@teamtogut.com) and Kyle J. Ortiz (kortiz@teamtogut.com);
- (d) The GUC Recovery Trust, c/o DSI Consulting, Inc., 110 East 42nd Street, Suite 1818, New York, New York 10017 Attn.: William A. Brandt., Jr. (bbrandt@DSiconsulting.com);
- (e) The Office of the United States Trustee, U.S. Federal Office Building, 201 Varick Street, Room 1006, New York, New York 10014, Attn.: Benjamin J. Higgins and Brian S. Masumoto; and
- (f) Any party that has requested notice pursuant to Bankruptcy Rule 2002.

Only those objections made in writing and timely filed in accordance with the above procedures will be considered by the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE THAT, unless the telephonic hearing procedures set forth in General Order M-543 (Morris, C.J.) are amended, the hearing to consider the Motion shall be held **telephonically via Court Solutions LLC on July 20, 2022**

at 11:00 a.m. (ET) before the Honorable Michael E. Wiles in the Bankruptcy Court, Courtroom 617, One Bowling Green, New York, New York 10004. Instructions to register for Court Solutions LLC are attached to Gen. Ord. M-543.

PLEASE TAKE FURTHER NOTICE THAT if you fail to object to the Motion in accordance with this Notice and by the Objection Deadline, the Bankruptcy Court may grant the relief requested in the Motion without further notice or a hearing.

Dated: June 24, 2022
New York, New York

/s/ Leo T. Crowley
PILLSBURY WINTHROP SHAW PITTMAN LLP
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Patrick E. Fitzmaurice
Kwame O. Akuffo
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patrick.fitzmaurice@pillsburylaw.com
kwame.akuffo@pillsburylaw.com

Counsel for GUC Recovery Trustee

Exhibit A

Proposed Order

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

----- X
In re: : Chapter 11
: :
JCK LEGACY COMPANY, *et al.*, : Case No. 20-10418 (MEW)
: :
Debtors.¹ : (Jointly Administered)
: :
----- X

**ORDER GRANTING GUC RECOVERY TRUSTEE'S MOTION
FOR ENTRY OF AN ORDER AUTHORIZING ABANDONMENT
AND DESTRUCTION OF CERTAIN DOCUMENTS**

Upon consideration of the *GUC Recovery Trustee's Motion for Entry of an Order Authorizing Abandonment and Destruction of Certain Documents* (the "**Motion**") for authorization to abandon and destroy the Documents; and the Court having jurisdiction under 28 U.S.C. §§ 157 and 1334 to consider the Motion and relief requested; and the Motion and relief requested being a core proceeding under 28 U.S.C. § 157(b)(2); and venue being proper before this Court under 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided; and it appearing that no other notice is needed; and such relief being in the best interests of the Debtors' estates and their creditors, and the GUC Recovery Trust²; and the Court having considered all papers submitted; and for good cause shown;

It is hereby **ORDERED** that:

1. The Motion is **GRANTED** to the extent set forth herein.
2. The GUC Recovery Trustee is authorized to abandon and destroy the Documents as set forth in the Motion.

¹ The Debtors in these chapter 11 cases and the last four characters of each Debtor's tax identification number are: JCK Legacy Company (0478) and Herald Custom Publishing of Mexico, S. de R.L. de C.V. (5UZ1). The location of the GUC Recovery Trustee's service address for purposes of these chapter 11 cases is: 110 East 42 Street, Suite 1818 New York, NY 10017.

² Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Motion.

3. The Court shall retain jurisdiction over any matter arising from or related to the implementation of this Order.

Dated: July ____, 2022
New York, NY

Michael E. Wiles
United States Bankruptcy Judge

Exhibit B

Invoice



STOCKTON
(209) 320-7771

SACRAMENTO
(916) 649-7360

FRESNO
(559) 475-7892

MODESTO
(209) 343-4630

NAPA/SOLANO COUNTY
(888) 893-6054

FED. I.D. 94-0745450

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INVOICE

Pillsbury Winthrop Shaw Pittman LLP
Michael Burrell
1200 17TH St., NW
Washington, DC 20036

Invoice No. 4211399
Date: 6/2/2022
Acct: 5716
Account PO#:
From: 5/1/2022 to 5/31/2022

Page: 1

		RATE	QTY	TOTAL
STORAGE: 5/1/2022 through 5/31/2022				
Standard Records Container	(0.4000/30 days)	0.4133	1,794.00	741.52
Letter Transfer Cases	(0.5000/30 days)	0.5167	169.00	87.32
Legal Transfer Cases	(1.3100/30 days)	1.3537	16.00	21.66
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			1,979.00	850.50

RECURRING SERVICES

Pallett Storage: 17 @ \$16.00 ea		272.0000	1	272.00

				272.00

Total Amount Due **1,122.50**

MAIL REMITTANCE TO: PACIFIC STORAGE COMPANY • P.O. BOX 334 • STOCKTON, CA 95201-0334

PLEASE SHOW THE ABOVE REFERENCED ACCOUNT NUMBER ON YOUR CHECK.