

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

In re:

PROSOMNUS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10972 (JTD)

(Jointly Administered)

**AMENDED² NOTICE OF AGENDA OF MATTERS SCHEDULED
FOR HEARING ON JUNE 5, 2024 AT 10:00 A.M. (ET)**

**PLEASE NOTE: THIS HEARING HAS BEEN CANCELED WITH THE
PERMISSION OF THE COURT AS NO MATTERS ARE SCHEDULED TO GO
FORWARD.**

FIRST DAY DECLARATION

1. Declaration of Brian Dow, Chief Financial Officer of the Debtors, in Support of Chapter 11 Petitions and First Day Pleadings [Docket No. 14; Filed: 5/8/2024]

MATTERS WITH CERTIFICATE OF NO OBJECTION

2. Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to File Consolidated Top 20 Creditors List, (II) Modifying Requirements to File a List of, and Provide Notice to, All Equity Holders, (III) Authorizing Redaction of Certain Personally Identifiable Information, and (IV) Granting Related Relief [Docket No. 4; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m.

Related Document(s):

- a) Interim Order (I) Authorizing Debtors to File Consolidated Top 20 Creditors List, (II) Modifying Requirements to File a List of, and Provide Notice to, All Equity Holders, (III) Authorizing Redaction of Certain Personally Identifiable Information, and (IV) Granting Related Relief [Docket No. 42; Entered: 5/9/2024]
- b) Certificate of No Objection Regarding Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to File Consolidated Top

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: ProSomnus, Inc. (8216), ProSomnus Holdings, Inc. (3855), and ProSomnus Sleep Technologies, Inc. (0766). The location of the Debtors' principal place of business and the Debtors' mailing address is 5675 Gibraltar Dr., Pleasanton, California 94588.

² **Amended items appear bold.**



20 Creditors List, (II) Modifying Requirements to File a List of, and Provide Notice to, All Equity Holders, (III) Authorizing Redaction of Certain Personally Identifiable Information, and (IV) Granting Related Relief [Docket No. 100; Filed: 5/31/2024]

- c) **Final Order (I) Authorizing Debtors to File Consolidated Top 20 Creditors List, (II) Modifying Requirements to File a List of, and Provide Notice to, All Equity Holders, (III) Authorizing Redaction of Certain Personally Identifiable Information, and (IV) Granting Related Relief [Docket No. 109; Entered: 6/3/2024]**

Response(s) Received: None.

Status: **A final order has been entered. No hearing is necessary.**

3. Motion of Debtors for Entry of Interim and Final Orders (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, (II) Approving the Debtors' Proposed Adequate Assurance of Payment for Postpetition Services, and (III) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment [Docket No. 6; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m.

Related Document(s):

- a) Interim Order (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, (II) Approving the Debtors Proposed Adequate Assurance of Payment for Postpetition Services, and (III) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment [Docket No. 44; Entered: 5/9/2024]
- b) Certificate of No Objection Regarding Motion of Debtors for Entry of Interim and Final Orders (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, (II) Approving the Debtors' Proposed Adequate Assurance of Payment for Postpetition Services, and (III) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment [Docket No. 101; Filed: 5/31/2024]
- c) **Final Order (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Service, (II) Approving the Debtors Proposed Adequate Assurance of Payment for Postpetition Services, and (III) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment [Docket No. 108; Entered: 6/3/2024]**

Response(s) Received: None.

Status: **A final order has been entered. No hearing is necessary.**

4. Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Continuation of, and Payment of Prepetition Obligations Incurred in the Ordinary Course of Business in Connection with Various Insurance Policies, (II) Authorizing Banks to Honor and Process Checks and Electronic Transfer Requests Related Thereto, (III) Preventing Insurance Companies from Giving Any Notice of Termination or Otherwise Modifying Any Insurance Policy Without Obtaining Relief from the Automatic Stay, and (IV) Authorizing the Debtors to Continue Installment Payments and Brokerage Obligations [Docket No. 7; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m.

Related Document(s):

- a) Interim Order (I) Authorizing Continuation of, and Payment of Prepetition Obligations Incurred in the Ordinary Course of Business in Connection with Various Insurance Policies, (II) Authorizing Banks to Honor and Process Checks and Electronic Transfer Requests Related Thereto, (III) Preventing Insurance Companies from Giving Any Notice of Termination or Otherwise Modifying Any Insurance Policy Without Obtaining Relief from the Automatic Stay, and (IV) Authorizing the Debtors to Continue Installment Payments and Brokerage Obligations [Docket No. 45; Entered: 5/9/2024]
- b) Certificate of No Objection Regarding Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Continuation of, and Payment of Prepetition Obligations Incurred in the Ordinary Course of Business in Connection with Various Insurance Policies, (II) Authorizing Banks to Honor and Process Checks and Electronic Transfer Requests Related Thereto, (III) Preventing Insurance Companies from Giving Any Notice of Termination or Otherwise Modifying Any Insurance Policy Without Obtaining Relief from the Automatic Stay, and (IV) Authorizing the Debtors to Continue Installment Payments and Brokerage Obligations [Docket No. 102; Filed: 5/31/2024]
- c) **Final Order (I) Authorizing Continuation of, and Payment of Prepetition Obligations Incurred in the Ordinary Course of Business in Connection with Various Insurance Policies, (II) Authorizing Banks to Honor and Process Checks and Electronic Transfer Requests Related Thereto, (III) Preventing Insurance Companies from Giving Any Notice of Termination or Otherwise Modifying Any Insurance Policy Without Obtaining Relief from the Automatic Stay, and (IV) Authorizing the Debtors to Continue Installment Payments and Brokerage Obligations [Docket No. 107; Entered: 6/3/2024]**

Response(s) Received: None.

Status: **A final order has been entered. No hearing is necessary.**

5. Motion of Debtors for Entry of Interim and Final Orders Authorizing Debtors to (I) Maintain and Administer Customer Programs, Promotions, and Practices and (II) Pay and Honor Related Prepetition Obligations [Docket No. 9; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m.

Related Document(s):

- a) Interim Order Authorizing Debtors to (I) Maintain and Administer Customer Programs, Promotions, and Practices and (II) Pay and Honor Related Prepetition Obligations [Docket No. 47; Entered: 5/9/2024]
- b) Certificate of No Objection Regarding Motion of Debtors for Entry of Interim and Final Orders Authorizing Debtors to (I) Maintain and Administer Customer Programs, Promotions, and Practices and (II) Pay and Honor Related Prepetition Obligations [Docket No. 103; Filed: 5/31/2024]
- c) **Final Order Authorizing Debtors to (I) Maintain and Administer Customer Programs, Promotions, and Practices and (II) Pay and Honor Related Prepetition Obligations [Docket No. 106; Entered: 6/3/2024]**

Response(s) Received: None.

Status: **A final order has been entered. No hearing is necessary.**

6. Application of Debtors for Authorization to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor, Effective as of the Petition Date [Docket No. 67; Filed: 5/15/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m.

Related Document(s): None.

Response(s) Received:

- a) Certificate of No Objection Regarding Application of Debtors for Authorization to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor, Effective as of the Petition Date [Docket No. 104; Filed: 5/31/2024]
- b) **Order Authorizing the Debtors to Employ and Retain Kurtzman Carson Consultants LLC as Administrative Advisor, Effective as of the Petition Date [Docket No. 118; Entered 6/4/2024]**

Status: **An order has been entered. No hearing is necessary.**

MATTERS GOING FORWARD

7. Motion of Debtors for Entry of Interim and Final Orders Authorizing (I) Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks, and Business Forms, and (II) Continuation of Existing Deposit Practices [Docket No. 5; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (Wells Fargo Bank and the United States Trustee were granted extensions to respond)

Related Document(s):

- a) Interim Order Authorizing (I) Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks, and Business Forms, and (II) Continuation of Existing Deposit Practices [Docket No. 43; Entered: 5/9/2024]
- b) **Certification of Counsel regarding Final Order Authorizing (I) Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Checks, and Business Forms, and (II) Continuation of Existing Deposit Practices and Related Relief [Docket No. 124; Filed 6/4/2024]**

Response(s) Received:

- a) Limited Objection of Wells Fargo Bank to Debtors' (I) Motion Authorizing Debtors to Obtain Postpetition Financing; and (II) Debtors' Motion to Continue to Operate Their Cash Management System [Docket No. 99; Filed: 5/31/2024]

Status: **The Debtors have submitted a consensual proposed form of final order under certification of counsel.**

8. Motion of Debtors for Entry of Interim and Final Orders Authorizing Payment of Prepetition Taxes and Fees [Docket No. 8; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) Interim Order Authorizing Payment of Prepetition Taxes and Fees [Docket No. 46; Entered: 5/9/2024]
- b) **Declaration of Brian Dow, Chief Financial Officer of the Debtors, in Further Support of Second Day Relief [Docket No. 110; Filed: 6/3/2024]**

- c) **Certification of Counsel Regarding Final Order Authorizing Payment of Prepetition Taxes and Fees [Docket No. 114; Filed: 6/3/2024]**
- d) **Final Order Authorizing Payment of Prepetition Taxes and Fees [Docket No. 117; Entered 6/4/2024]**

Response(s) Received: Informal comments from the United States Trustee

Status: **A final order has been entered. No hearing is necessary.**

9. Motion of Debtors for Entry of Interim and Final Orders Authorizing Payment of (I) Certain Prepetition Employee Claims, Including Wages, Salaries, and Other Compensation, (II) Certain Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (III) Reimbursement to Employees for Prepetition Expenses, (IV) Withholding and Payroll-Related Taxes, (V) Workers' Compensation Obligations, and (VI) Prepetition Claims Owing to Administrators and Third-Party Providers [Docket No. 10; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) Interim Order Authorizing Payment of (I) Certain Prepetition Employee Claims, Including Wages, Salaries, and Other Compensation, (II) Certain Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (III) Reimbursement to Employees for Prepetition Expenses, (IV) Withholding and Payroll-Related Taxes, (V) Workers' Compensation Obligations, and (VI) Prepetition Claims Owing to Administrators and Third-Party Providers [Docket No. 48; Entered: 5/9/2024]
- b) **Certificate of No Objection Regarding Motion of Debtors for Entry of Interim and Final Orders Authorizing Payment of (I) Certain Prepetition Employee Claims, Including Wages, Salaries, and Other Compensation, (II) Certain Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (III) Reimbursement to Employees for Prepetition Expenses, (IV) Withholding and Payroll-Related Taxes, (V) Workers' Compensation Obligations, and (VI) Prepetition Claims Owing to Administrators and Third-Party Providers [Docket No. 113; Filed: 6/3/2024]**
- c) **Final Order Authorizing Payment of (I) Certain Prepetition Employee Claims, Including Wages, Salaries, and Other Compensation, (II) Certain Employee Benefits and Confirming Right to Continue Employee Benefits on Postpetition Basis, (III) Reimbursement to Employees for Prepetition Expenses, (IV) Withholding and Payroll-Related Taxes, (V) Workers' Compensation Obligations, and (VI)**

Prepetition Claims Owing to Administrators and Third-Party Providers [Docket No. 116; Entered: 6/4/2024]

Response(s) Received: None.

Status: **A final order has been entered. No hearing is necessary.**

10. Motion of Debtors for Entry of Interim and Final Orders Authorizing Payment of Prepetition Obligations Owed to Critical Vendors [Docket No. 11; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) Interim Order Authorizing Payment of Prepetition Obligations Owed to Critical Vendors [Docket No. 49; Entered: 5/9/2024]
- b) **Declaration of Brian Dow, Chief Financial Officer of the Debtors, in Further Support of Second Day Relief [Docket No. 110; Filed: 6/3/2024]**

Response(s) Received: Comments from the United States Trustee

Status: **This matter has been adjourned to the hearing scheduled for June 12, 2024 at 1:30 p.m. ET.**

11. Motion of Debtors for Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Senior Subordinate Secured Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief [Docket No. 12; Filed: 5/7/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (Wells Fargo Bank and the United States Trustee were granted extensions to respond)

Related Document(s):

- a) Declaration of Edward T. Gavin, CTP, NCPM, in Support of the Motion of Debtors for Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Senior Subordinate Secured Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief [Docket No. 13; Filed: 5/7/2024]
- b) Declaration of Jason L. Orchard in Support of Motion of Debtors for Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Senior Subordinate Secured Postpetition Financing and (B) Utilize Cash

Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief [Docket No. 36; Filed: 5/8/2024]

- c) Interim Order (I) Authorizing the Debtors to (A) Obtain Senior Subordinate Secured Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief [Docket No. 54; Entered: 5/9/2024]
- d) **Certification of Counsel Regarding Final Order (I) Authorizing the Debtors to (A) Obtain Senior Subordinate Secured Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief [Docket No. 125; Filed 6/4/2024]**

Response(s) Received: Informal comments from the United States Trustee

Status: **The Debtors have submitted a consensual proposed form of final order under certification of counsel.**

12. Application of Debtors for Authority to Employ and Retain Polsinelli PC as Counsel to the Debtors, Effective as of the Petition Date [Docket No. 65; Filed: 5/15/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) **Supplemental Declaration of Shanti M. Katona, Esq. in Support of the Application of the Debtors for Authority to Employ and Retain Polsinelli PC as Counsel to the Debtors, Effective as of the Petition Date [Docket No. 119; Filed 6/4/2024]**
- b) **Certification of Counsel Regarding Application of the Debtors for Authority to Employ and Retain Polsinelli PC as Counsel to the Debtors, Effective as of the Petition Date [Docket No. 121; Filed 6/4/2024]**

Response(s) Received: Informal comments from the United States Trustee

Status: **The Debtors have submitted a consensual proposed form of order under certification of counsel.**

13. Application of Debtors for an Order Under Bankruptcy Code Sections 327(a) and 328(a) and Bankruptcy Rule 2014(a) Authorizing and Approving the Employment of

Gavin/Solmonese LLC as Financial Advisor for the Debtors, Effective as of the Petition Date [Docket No. 66; Filed: 5/15/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) **Supplemental Declaration of Edward T. Gavin, CTP, NCPM in Support of the Application of the Debtors for an Order Under Bankruptcy Code Sections 327(a) and 328(a) and Bankruptcy Rule 2014(a) Authorizing and Approving the Employment of Gavin/Solmonese LLC as Financial Advisor for the Debtors Effective as of the Petition [Docket No. 111; Filed: 6/3/2024]**
- b) **Certification of Counsel Regarding Order Under Bankruptcy Code Sections 327(a) and 328(a) and Bankruptcy Rule 2014(a) Authorizing and Approving the Employment of Gavin/Solmonese LLC as Financial Advisor for the Debtors Effective as of the Petition [Docket No. 112; Filed: 6/3/2024]**
- c) **Order Authorizing and Approving the Employment of Gavin/Solmonese LLC as Financial Advisor for the Debtors, Effective as of the Petition Date [Docket No. 115; Entered 6/4/2024]**

Response(s) Received: Informal comments from the United States Trustee

Status: **An order has been entered. No hearing is necessary.**

14. Motion of Debtors for Entry of an Order Authorizing the Retention and Payment of Certain Professionals Utilized by the Debtors in the Ordinary Course of Business [Docket No. 76; Filed: 5/22/2024]

Objection Deadline: May 29, 2024 at 4:00 p.m. (United States Trustee was granted an extension to respond)

Related Document(s):

- a) **Declaration of Brian Dow, Chief Financial Officer of the Debtors, in Further Support of Second Day Relief [Docket No. 110; Filed: 6/3/2024]**

Response(s) Received: Comments from the United States Trustee

Status: **This matter has been adjourned to the hearing scheduled for June 12, 2024 at 1:30 p.m. ET.**

Dated: June 4, 2024
Wilmington, Delaware

POLSINELLI PC

/s/ Shanti M. Katona

Shanti M. Katona (Del. Bar No. 5352)
Katherine M. Devanney (Del. Bar No. 6356)
Michael V. DiPietro (Del. Bar No. 6781)
222 Delaware Avenue, Suite 1101
Wilmington, Delaware 19801
Telephone: (302) 252-0920
Facsimile: (302) 252-0921
skatona@polsinelli.com
kdevanney@polsinelli.com
mdipietro@polsinelli.com

-and-

Mark B. Joachim (Admitted Pro Hac Vice)
1401 Eye Street, N.W., Suite 800
Washington, D.C. 20005
Telephone: (202) 783-3300
Facsimile: (202) 783-3535
mjoachim@polsinelli.com

*Proposed Counsel to the Debtors and
Debtors in Possession*