

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: § CASE NO. 24-90627-11  
5 THE CONTAINER STORE GROUP, § HOUSTON, TEXAS  
6 INC., et al., § TUESDAY,  
DEBTORS. § MARCH 11, 2025  
§ 9:00 A.M. TO 10:21 A.M.

7 **MOTION HEARING**

8 BEFORE THE HONORABLE ALFREDO R. PEREZ  
9 UNITED STATES BANKRUPTCY JUDGE

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11  
12 APPEARANCES: SEE NEXT PAGE  
13 CASE MANAGER: TYLER LAWS  
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(Please also see Electronic Appearances.)

INDEXWITNESSES                      Direct                      Cross                      Redirect                      Recross

Chad Coben				
By Mr. Nguyen	8	.	30	.
By Mr. Murtagh	.	26	.	.

EXHIBITS:    Marked                      Offered                      Received

249-1 through 249-5	.	.	6
250-1	.	.	33

Page

Closing Argument, by Mr. Nguyen	34
Closing Argument, by Mr. Murtagh	50
Further Argument, by Mr. Nguyen	69

<u>THE COURT:</u> Findings	71
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1           **HOUSTON, TEXAS; TUESDAY, MARCH 11, 2025; 9:00 A.M.**

2           THE COURT: All right. Good morning. It's  
3 Tuesday, March 11th. We're here for the 9:00 Docket, case  
4 number 24-90627, The Container Store Group, and a hearing on  
5 the motion for final decree at Docket 208, and a hearing on  
6 the motion for stay pending appeal at Docket 210.

7           So why don't we get appearances of counsel, and  
8 then we can go forward.

9           MR. NGUYEN: Good morning, Your Honor. Ha Nguyen  
10 for the United States Trustee. With me today is Vianey  
11 Garza from my office. Thank you.

12          THE COURT: Thank you.

13          Ms. Garza, as a complete aside, I did sign the  
14 timeline order.

15          MS. GARZA: I did see that.

16          THE COURT: So there's no hearing this afternoon.

17          MS. GARZA: Understood.

18          THE COURT: Thank you.

19          MR. GUFFY: Good morning, Your Honor. Philip  
20 Guffy from Hunton Andrews Kurth on behalf of the organized  
21 Debtors. Also with me is my colleague Ashley Harper, and  
22 our cocounsel from Latham & Watkins, Mr. Ted Dillman and  
23 Hugh Murtagh.

24          THE COURT: Thank you.

25          MR. NGUYEN: Your Honor, if we're taking up the

1 motion for the stay pending appeal, I think I should go  
2 first.

3 THE COURT: Yeah. And, I mean, I'm happy to do it  
4 that way. Normally, I would just take the lower number  
5 order, but let's do it that -- let's -- you can go first.

6 MR. NGUYEN: Okay. Thank you, Your Honor. And I  
7 think Mr. Murtagh and I talked about some exhibits. I have  
8 an agreement on his exhibit that I have no objections to the  
9 Court receiving Mr. Coben's declaration into evidence  
10 subject to my ability to cross, of course.

11 And just for housekeeping, I just want to go  
12 through some of my exhibits. I haven't spoken to Mr.  
13 Murtagh, but most of the exhibits I have on 249 are court-  
14 filed pleadings. They're part of the records at  
15 confirmation and they're your orders.

16 And there are two declarations by Darlene Calderon  
17 who submitted the solicitation tabulation of votes. Those  
18 are somewhat party opponent statements. They were part of  
19 the records on confirmation. So if we can just go through  
20 them one by one, that would be great, Your Honor.

21 THE COURT: Okay. So first, does anybody object  
22 to incorporating the record from the confirmation hearing  
23 into the record for this motion for stay pending appeal?

24 MR. GUFFY: No objection, Your Honor.

25 MR. NGUYEN: Your Honor, so that would take care

1 of Exhibit 249-1, 249-2, 249-3, 249-4, 249-5.

2 THE COURT: Okay. All right. Good. So 249-1  
3 through 249-5 will be admitted and the entire record of the  
4 confirmation hearing will likewise be admitted.

5 (Exhibits 249-1 through 249-5 received in  
6 evidence, along with entire record from the confirmation  
7 hearing.)

8 MR. NGUYEN: Your Honor, 249-6 is just the notice  
9 of entry of the combined order, occurrence of the effective  
10 date, and rejection of the claims bar date. It's court-  
11 filed documents. I don't think there's any objection to  
12 that --

13 THE COURT: Okay.

14 MR. NGUYEN: -- document going into evidence.

15 THE COURT: All right. I can take judicial notice  
16 of that, --

17 MR. NGUYEN: Okay.

18 THE COURT: -- so that'll be admitted.

19 MR. NGUYEN: Your Honor, 7 and 8, it's just our  
20 notice of appeal and the statement of election. And 249-8  
21 is just the Docket sheet in the District Court.

22 THE COURT: Again, number 7, I can take judicial  
23 notice because it was filed on the record, so I'll admit  
24 that.

25 And I can take -- I can also take -- any objection

1 to me taking judicial notice of the Docket sheet in the  
2 District Court?

3 MR. GUFFY: No, Your Honor.

4 MR. NGUYEN: Your Honor, 249-9, I'm not asking the  
5 Court to receive the complaint file in the State of  
6 California in the County of Los Angeles into evidence. I  
7 just want the Court to take judicial notice that there is a  
8 complaint without having the truth of matter -- the truth  
9 asserted in the matter we allege. So it's just judicial  
10 notice of the complaint.

11 THE COURT: All right. Any objection?

12 MR. GUFFY: None, Your Honor.

13 THE COURT: Okay. So I will take the judicial  
14 notice of the fact that a complaint has been filed in  
15 California.

16 MR. NGUYEN: Thank you, Your Honor. And so, Your  
17 Honor, the reorganized Debtor submitted a declaration of Mr.  
18 Chad Coben. I would like to call Mr. Coben. I have some  
19 questions for him, and I also want to be able to cross him  
20 on some of the statements that he made on the declaration.

21 THE COURT: All right. Any objection to putting  
22 him up on their affirmative case?

23 MR. GUFFY: No, Your Honor.

24 THE COURT: Okay.

25 Mr. Coben, why don't you come up. Take a seat

1 over here. Good morning. Raise your right hand.

2 Do you solemnly swear or affirm to tell the truth,  
3 the whole truth, and nothing but the truth?

4 THE WITNESS: I do.

5 THE COURT: All right. Please be seated.

6 DIRECT EXAMINATION

7 BY MR. NGUYEN:

8 Q Thank you, Mr. Coben. This is my -- actually my first  
9 time taking a witness in Judge Perez's courtroom. I'm  
10 typically looking to the right in Judge Lopez's courtroom,  
11 so it's going to be a little bit of a change for me.

12 Mr. Coben, my name Ha Nguyen. I'm an attorney  
13 representing the United States Trustee here. I have some  
14 questions this morning regarding the declaration you filed  
15 in opposition that you submitted for this hearing today.

16 For The Container Store, we didn't have a 341 meeting,  
17 so I didn't have a chance. Typically, I have a chance to  
18 talk to the CRO and get to know you a little bit, but we  
19 didn't have an opportunity in this case.

20 So I'm happy to have you here today. Mr. Coben,  
21 you are no longer the chief restructuring officer for The  
22 Container Store; is that correct?

23 A That is correct.

24 Q But while the case was pending, you were the -- I'm  
25 going to say CRO for The Container Store; is that correct?



1 A That is correct.

2 Q And when did you stop acting as the chief restructuring  
3 officer for The Container Store?

4 A Upon -- upon emergence from the Chapter 11.

5 Q What that when the notice of effective date was filed?

6 A Right.

7 Q Okay. As the CRO -- well, as the former CRO, are you  
8 familiar with the Transaction Support Agreement?

9 A I am.

10 Q Did you have any role in negotiating the Transaction  
11 Support Agreement?

12 A I was involved in the process. Some of it directly,  
13 more of it indirectly, but was aware of all of the -- of the  
14 discussions that were ongoing during the negotiation.

15 Q So are you aware of the provisions that are in the  
16 Transaction Support Agreement?

17 A Generally speaking, yes.

18 Q All right. Do you know what -- are the terminating  
19 events that exist within the Transaction Support Agreement?

20 A I don't recall them off the top of my head, but read  
21 them at one point.

22 Q Let me ask you this. Is any threshold amount in the  
23 number of non-Debtors opting out of third-party releases  
24 that would terminate the Transaction Support Agreement?

25 A I don't recall.

1 MR. NGUYEN: Let me ask Ms. Garza if she can pull  
2 up -- and Your Honor, if you can give Ms. Garza the ability?

3 THE COURT: Why don't you turn on your camera, and  
4 then I'll do that.

5 MS. GARZA: I wasn't dialed in. I am physically  
6 plugged in, but I'm happy to join court -- GoTo Meetings if  
7 that would be preferable for the Court.

8 THE COURT: How do you -- okay. How do you then  
9 do it?

10 MS. GARZA: Usually, there is a -- usually, the  
11 courtroom deputy has a ability to jack in here, but if you  
12 don't know, then I'm just going to sign into GoTo Meetings.

13 THE COURT: I -- I've never --

14 MS. GARZA: Okay.

15 THE COURT: -- nobody's ever asked me to do that.

16 MS. GARZA: All right.

17 MR. MURTAGH: Your Honor, while we have a pause,  
18 I'd like to interpose an objection to the question and the  
19 line of questioning on the Transaction --

20 THE COURT: Why don't you stand up so I can hear  
21 you. And make an appearance so we can get you.

22 MR. MURTAGH: Your Honor, it's Hugh Murtagh on  
23 behalf of the reorganized Debtors from Latham & Watkins.  
24 The objection is to the question and line of questioning on  
25 the Transaction Support Agreement. There's nothing in the

1 -- in Mr. Coben's declaration today that references the  
2 Transaction Support Agreement.

3 It's well beyond the scope of his direct. If the  
4 United States Trustee wants to make reference to the  
5 Transaction Support Agreement and point to paragraphs from  
6 it, I have no objection. But it's not part of Mr. Coben's  
7 testimony.

8 MR. NGUYEN: Your Honor, number one, I'm calling  
9 Mr. Coben as part of my direct examination as well. I  
10 reserve the right to add any witnesses that were on their  
11 witnesses to my witnesses. So he's part of my direct  
12 examination.

13 He's the chief restructuring officer. He talks  
14 about in his declaration his role within the Debtors'  
15 reorganization. He was involved in the transaction. I just  
16 want to know what the terminating events are, and we're  
17 going to pull up the documents.

18 THE COURT: Right. But if you're looking at the  
19 termination events on a document, the best evidence rule  
20 allows the document to come in for the terminating events.  
21 And I think his testimony is not, you know, relevant.

22 I mean, you can ask him about his knowledge about  
23 it, but the document speaks for itself. And I don't think  
24 that testimony from the witness about what the document says  
25 or his interpretation of the documents is appropriate.

1 MR. NGUYEN: That's fair, Your Honor. And the  
2 document is in. So I would just point to it on closing.  
3 Let me just ask a few more questions.

4 THE COURT: Okay. Let me give Ms. Garza presenter  
5 role. Okay. Ms. Garza is now a presenter.

6 MS. GARZA: Thank you, Your Honor.

7 MR. NGUYEN: Okay. Ms. Garza, I do not need that  
8 exhibit, so I'm just going to proceed.

9 BY MR. NGUYEN:

10 Q Mr. Coben, are you familiar with the prepackaged plan  
11 of reorganization that the Court confirmed in this case?

12 A I am.

13 Q Are you aware of any threshold amount in the number of  
14 non-Debtor opting out of third-party releases that will  
15 cause the plan to not go effective?

16 A I'm sorry. Could you restate the question?

17 Q Sure. Well, let me just take this up. You read the  
18 plan, right?

19 A Sure.

20 Q You know the provisions that are in the plan, correct?

21 A I do.

22 Q Okay. So do you recall any provisions in the plan that  
23 provides for if there's a threshold amount in the number of  
24 non-Debtor opting out of a third-party release that will  
25 cause the plan not to go into effective?

1 A I don't recall.

2 Q So is it your understanding if you had 100 percent of  
3 holders of claims opting out, the plan would have still gone  
4 effective?

5 A I -- I -- I'm not sure of that.

6 Q Okay. And the number of claimholders opting out of the  
7 third-party releases, that wasn't a condition precedent to  
8 the plan being effective; is that correct?

9 A I don't recall. But if you're saying that's the case.

10 Q Okay. Do you know about a woman by the name of Darlene  
11 Calderon?

12 A I don't know her, but I know of her.

13 Q Does she work for Veritas?

14 A Believe so. She's not part of FTI.

15 Q Okay. And --

16 A I'm aware of her involvement.

17 Q Was she retained by the Debtor as part of the Chapter  
18 11 reorganization?

19 A Yes.

20 Q Okay. Did Ms. Calderon submit a declaration regarding  
21 the tabulation of votes and the results of the solicitation  
22 for confirmation?

23 A She did.

24 Q Do you recall how many opt-out forms were sent?

25 A I do not.

1 Q Would it surprise you if I said about 17,000?

2 A I don't remember what the number was, to be honest.

3 Q Okay. Do you know how many opt-out forms were  
4 returned?

5 A I do not.

6 Q Do you recall how many opt-out forms were returned as  
7 undeliverable?

8 A I do not.

9 Q Do you have any understanding of the third-party  
10 release provisions in the plan?

11 A Some.

12 Q Okay. So I represent to you -- and the declaration is  
13 in evidence from Ms. Calderon -- there were 297 opt outs  
14 that were returned as undeliverable.

15 You as the CRO, are those 297 holders of claims that  
16 did not receive the opt-out form, are those holders bound by  
17 the third-party releases to your understanding?

18 A I believe --

19 MR. MURTAGH: Objection, Your Honor. Calls for a  
20 legal conclusion.

21 THE COURT: Sustained.

22 MR. NGUYEN: Thank you, Your Honor.

23 BY MR. NGUYEN:

24 Q And when you submitted the declaration with respect to  
25 the U.S. Trustees' motion, you were doing that in the

1 capacity of a financial advisor; is that correct?

2 A Correct.

3 Q How much are the Debtors paying you to submit this  
4 declaration?

5 A The -- the -- I've been retained post-emergence as a  
6 financial advisor and am working under an engagement letter  
7 on an ongoing basis, continuing my work for the company and  
8 billing by the hour.

9 Q And you're not representing yourself as an expert by  
10 any means, correct?

11 A Expert with respect to what?

12 Q As an expert witness here today?

13 A Yes.

14 Q You are representing yourself as an expert witness?

15 A No, I -- I -- I represent myself as a financial advisor  
16 to the company.

17 Q Okay. But not the qualified expert witness that you  
18 would see at a trial, correct?

19 A No.

20 Q Okay. So I just have a couple questions on your  
21 declaration and thank you for submitting it. Let me just  
22 pull it up. Here we go. Your declaration was filed at  
23 Docket 250-1, and it is in evidence.

24 And I just want to start with paragraph 7. I'm just  
25 going to read some of the stuff that you said, and I just

1 have some questions.

2 In paragraph 8, you said, "I believe that granting a  
3 stay of the confirmation order would cause needless  
4 confusion and undermine the value-maximizing effect of the  
5 reorganized Debtors' successful reorganization."

6 Do you remember putting that in your declaration?

7 A Yes, I do.

8 Q And at any time you want me to pull up the declaration  
9 on the screen so you can --

10 A I have a copy of it here.

11 Q Perfect. Thank you. Did any creditor reach out to you  
12 and let you know that they were confused about what was  
13 happening here?

14 A No.

15 Q Okay. Did any equity holder reach out to you to let  
16 you know that they were confused about this appeal?

17 A No.

18 Q Okay. And you've been in bankruptcy cases before,  
19 right?

20 A Yes.

21 Q So when the Court issues an order, parties have the  
22 right to seek an appeal of that order; is that correct?

23 A Correct.

24 Q And if a party disagree with the Judge's ruling, they  
25 have the right to go up to the Appellate Court. There's



1 really nothing confusing about that; is that correct?

2 MR. MURTAGH: Objection, Your Honor. It calls for  
3 speculation on the views of other parties, and if in  
4 anything, it's a legal conclusion.

5 MR. NGUYEN: Judge, yeah, I'm just trying to get  
6 to the bottom where the confusion is. I'm just asking him  
7 whether --

8 THE COURT: You can ask him that question, but I  
9 don't think that he -- I think it's a valid objection as to,  
10 you know, calls for speculation. So you could ask for what  
11 he said.

12 MR. NGUYEN: Okay.

13 BY MR. NGUYEN:

14 Q Is there anything confusing to you about the U.S.  
15 Trustee appealing the confirmation order?

16 A Nothing confusing about your right to appeal it and the  
17 fact that you have appealed it.

18 Q Okay. And you --

19 A But the impact on the -- but the impact is -- can be  
20 confusing.

21 Q And the impact on who?

22 A The impact on a number of different parties.

23 Q And has any of those parties reached out to you in  
24 terms of expressing that confusion?

25 A Not yet.

1 Q Okay. And you're not confused about any of this,  
2 right?

3 A I wouldn't go so far as to say that. I am in part  
4 confused by it. I don't have a full appreciation, for  
5 example, of what it means to stay a plan that's already gone  
6 effective. That -- that is confusing to me --

7 Q And --

8 A -- and could be confusing to others.

9 Q -- in paragraph 8, you say that the Court concluded the  
10 third-party releases are integral to the plan. You  
11 personally believe that as well, right?

12 A I do.

13 Q But there is no provision, either the plan or the  
14 Transaction Support Agreement that says that the plan would  
15 not be effective if 100 percent of the holders of claim  
16 opted out of the third-party releases; is that correct?

17 A I believe so.

18 Q Okay. And in that same paragraph, you say that  
19 imposing the stay on the third-party releases will create  
20 uncertainty about the validity of numerous actions that the  
21 third party took in reliance of the plan; do you recall  
22 that?

23 A I do recall that.

24 Q Did any non-Debtor reach out to you to let you know  
25 that they were uncertain of the action that they took in

1 reliance in the third-party release provisions?

2 A No.

3 Q Okay. And in paragraph 9, you say, "parties have  
4 relied on the finality provided by the provisions may be  
5 forced to expend time, money, and resources on lawsuits  
6 involving claims that are subject to these provisions." Do  
7 you see that?

8 A I do.

9 Q I'm sorry. Did any creditor or non-Debtors that were  
10 subject to the third-party releases reach out to you to tell  
11 you that they were expending time, money, and resources on  
12 lawsuit on claims that would otherwise be barred by the  
13 third-party releases?

14 A No.

15 Q Are you aware of any?

16 A I am not aware of any.

17 Q Are the equity holders in Class 8 subject to the third-  
18 party release provisions, to your knowledge?

19 A Yes.

20 Q Okay. And at the beginning of paragraph 9, you begin  
21 with maintaining the status quo. And I have some questions  
22 on the status quo, but let me read the rest of it.

23 Within those parentheses, it says, "which parties  
24 bargained for and accepted." Do you see that?

25 A I do.

1 Q Under the plan, the existing equity holders, their  
2 interests are canceled; is that correct?

3 A Correct.

4 Q So what did the equity holders bargain for and accepted  
5 under the plan?

6 A The -- the -- well, the equity holders were -- were  
7 deemed to have objected to the plan, so they -- they didn't  
8 bargain for or -- or accept anything necessarily.

9 But the other parties who were involved in -- in  
10 crafting the plan of reorganization considered the third-  
11 party releases and other releases as part of the  
12 consideration going into the formation of the plan.

13 Q But it's your position that the equity holder consented  
14 to be bound by the third-party releases; is that your  
15 position?

16 A I'm not sure.

17 Q Okay. Do you know if any of the non-Debtor released  
18 parties provide any consideration in exchange for the  
19 existing equity holders to release them?

20 MR. MURTAGH: Objection, Your Honor. Calls for a  
21 legal conclusion.

22 MR. NGUYEN: I'm asking if he's aware.

23 THE COURT: All right. You can say, "Are you  
24 aware or not?"

25 THE WITNESS: No.

1 BY MR. NGUYEN:

2 Q Okay. And as I'm going through this, in your  
3 declaration, you used the term significant disruption. Do  
4 you remember using the words significant disruption --

5 A I do.

6 Q -- that would result if the Court imposes the stay of  
7 the confirmation or just the third-party release provisions;  
8 and you recall that, right?

9 A I do.

10 Q Has the transaction contemplated by the Transaction  
11 Support Agreement been completed?

12 A It has.

13 Q Okay. The condition precedent to the plan has been  
14 met?

15 A It has.

16 Q And I know the plan is a little bit more nuanced, but  
17 my mind's kind of simple. So the way I see the plan is the  
18 only impaired class, which is Class 3, the term loan claims,  
19 are you -- well, let me strike that.

20 Are you aware of the Class 3 impaired creditors in this  
21 case?

22 A Yes.

23 Q And like I said, the plan is a little bit more nuanced,  
24 but Class 3 essentially became the new owners of The  
25 Container Store under the plan; is that correct?

1 A That's correct.

2 Q So there's an issuance of new stock?

3 A Correct.

4 Q Has that happened?

5 A Yes.

6 Q Okay. And just going back to that significant  
7 disruption piece of it, are customers able to still walk in  
8 to The Container Store today and shop notwithstanding that  
9 we're filing this appeal here?

10 A They are able to shop, yes.

11 Q Okay. And I'm glad you say that, because my wife loves  
12 organization, and if I'm in any way disrupting with her  
13 ability to go to The Container Store, I would be in big  
14 trouble. So I will let her know that there's no disruption  
15 to her ability to shop. Are employees being paid on time?

16 A They are.

17 Q Okay. And to your knowledge, is The Container Store  
18 paying all its vendors?

19 A They are.

20 Q Okay. Great. On paragraph 10 of your declaration, you  
21 talked about litigation that may proceed if the third-party  
22 release provisions are stayed; do you see that?

23 A I do.

24 Q Have you seen any letters or communication threatening  
25 litigation that would otherwise be enjoined by the third-

1 party releases?

2 A No.

3 Q Have you seen any customer complaints that could lead  
4 to litigation that would otherwise be enjoined by the third-  
5 party releases?

6 A No.

7 Q In paragraph 11, it's interesting because you said,  
8 "Based on conversation with the reorganized Debtors'  
9 management team, I am not aware of any claims being raised  
10 against the company." Do you see that?

11 A I do.

12 Q And the sentence goes on. But third-party releases are  
13 not about claims raised against the company; is that  
14 correct?

15 A I'm not sure --

16 Q Okay.

17 A -- who they could be brought against.

18 Q Okay. And in paragraph -- well, do you know the  
19 universe of parties or individuals or entities that would be  
20 a released party under the definition under the plan?

21 A Generally, yes.

22 Q Is it a broad group?

23 A Yes.

24 Q Would you say thousands?

25 MR. MURTAGH: Objection, Your Honor. It calls for

1 an interpretation of a legal document. It's entirely  
2 speculative how many people are in any of the subcategories  
3 within released parties.

4 THE COURT: Yeah. Sustained.

5 MR. NGUYEN: Well, let me step back.

6 BY MR. NGUYEN:

7 Q Let me ask this instead of -- well, we know there's at  
8 least 16,000, right, because that's how many opt-out forms  
9 were sent out?

10 MR. MURTAGH: Objection, Your Honor. That's --

11 THE COURT: I don't understand your question.

12 MR. MURTAGH: -- that's -- those are the releasing  
13 parties.

14 THE COURT: Yeah. No. Go ahead. Yeah, I didn't  
15 understand.

16 MR. NGUYEN: Okay. Let me take a step back.

17 BY MR. NGUYEN:

18 Q So there are numbers of claims that are enjoined under  
19 the third-party releases provision, correct?

20 A Okay.

21 Q And --

22 THE COURT: I'm sorry. I think that was a  
23 question. Do you understand that to be correct?

24 THE WITNESS: I believe so.

25 BY MR. NGUYEN:



1 Q And in paragraph 11, you talk about the statute of  
2 limitations regarding those claims; do you see that?

3 A I do.

4 Q Have you looked at any of these claims and evaluated  
5 whether the statute of limitation would run absent of stay?

6 A No.

7 Q Okay. And have you looked at any of the non-Debtor of  
8 the claims that are currently enjoined by third-party  
9 releases; have you identified any of those claims?

10 A No.

11 Q Okay. Mr. Coben, thank you so much.

12 MR. NGUYEN: I have no further questions, Your  
13 Honor.

14 THE COURT: Okay.

15 Mr. Murtagh may have some questions for you.

16 MR. MURTAGH: Thank you, Your Honor. Again, it's  
17 Hugh Murtagh from Latham & Watkins on behalf of the  
18 reorganized Debtors.

19 CROSS-EXAMINATION

20 BY MR. MURTAGH:

21 Q Good morning, Mr. Coben. Just a few questions relating  
22 to your discussion with the representative of the United  
23 States Trustee's office.

24 Do you recall a minute ago you were asked a number of  
25 questions whether any creditor or any interest holder had

1 approached you to state that they were confused by the  
2 appeal; do you recall those questions?

3 A I do.

4 Q Is your testimony that the appeal causes confusion or  
5 that the imposition of the stay would cause confusion?

6 A The imposition of the stay would cause confusion.

7 Q Okay. And I think you said a minute ago in your  
8 discussion that you believed that the imposition of the stay  
9 was likely to cause substantial confusion; is that correct?

10 A That is correct.

11 Q And you mentioned that one of the reasons that may be  
12 confusing, because it was confusing to you, is that the  
13 Trustee's Office appears to have sought a stay of the entire  
14 confirmation order and plan, correct?

15 A Correct.

16 Q Is it your testimony that the Trustee's decision to  
17 seek to stay the entire plan would cause confusion among the  
18 company's stakeholders?

19 A I believe it would.

20 Q And why is that?

21 A Well, I -- I think it's unclear, certainly to me and  
22 likely to others, what exactly that means with respect to  
23 the confirmation of the plan and the -- whether or not the  
24 Debtor is, in fact, reorganized and operating in the  
25 ordinary course as a reorganized Debtor.

1           So, for -- for example, for this to be picked up by the  
2 media and reported on, it could cause confusion among  
3 consumers not understanding whether or not the company is  
4 still in bankruptcy, which may have broad-reaching  
5 implications on their propensity to spend money in The  
6 Container Store.

7           Same is true of the vendor community. And were they to  
8 not be clear about whether or not the -- the company was out  
9 of bankruptcy, would they continue to impose stricter terms  
10 with respect to -- with respect to financing and -- and  
11 vendor terms?

12           So I think there's a lot of different areas where that  
13 could cause confusion and chaos for the business, which I  
14 think is value destructive.

15 Q       And nobody has approached you to express concern or  
16 confusion over the imposition of a stay because no stay has  
17 been imposed yet, correct?

18 A       That's correct.

19 Q       Similarly, you were asked a number of questions  
20 whether, just now, whether the business was operating,  
21 whether customers could come into the store, essentially  
22 whether there was normal-course business operation, correct?

23 A       Correct.

24 Q       But similarly, your testimony is not about disruption  
25 due to the appeal; it's due to the imposition of a stay,

1 correct?

2 A Correct.

3 Q And you were also asked a number of questions towards  
4 the end there relating to claims that could be brought or a  
5 party may wish to bring, but for the existence of the  
6 release; do you recall that?

7 A I do.

8 Q And I believe the Trustee's Office asked you whether  
9 you were aware of anyone attempting to bring such a claim,  
10 correct?

11 A Correct.

12 Q Do you have any view on whether anyone would be  
13 entitled to try to bring such a claim right now, given that  
14 the release is already effective?

15 A No.

16 Q No, you don't express a view or --

17 A No, I don't express a view.

18 Q And finally, just briefly, Mr. Coben, I think there was  
19 a question whether there were any claims that had been  
20 brought -- or two questions -- claims that had been brought  
21 or parties desired to bring, but they may not be able to  
22 bring due to the impending expiration of statutes of  
23 limitations on their claims.

24 And your testimony was that you were not aware of any  
25 such claims that anybody coming to you and saying, my claim

1 is about to expire; I need to bring this claim because the  
2 statute of limitations is going to run; is that right?

3 A That is correct.

4 Q And finally, Mr. Coben, I believe there were some  
5 questions around whether these claims could give rise to a  
6 need to indemnify. And I believe it's your testimony that  
7 in the declaration that claims against third parties could  
8 lead to indemnification obligations of the Debtors; is that  
9 correct?

10 A That is correct.

11 Q Because in the Debtors' plan, they assumed all of the  
12 existing indemnity obligations of the company, correct?

13 A That is correct.

14 Q And those indemnification obligations also run to,  
15 among other parties, former directors and officers.

16 A That is correct.

17 Q So if a third party were to bring a suit against a  
18 director or officer, former director or officer of the  
19 company because a stay has been imposed that prevents the  
20 releases from going effective, those parties could seek  
21 indemnification for the costs arising therefrom, correct?

22 A That's correct.

23 MR. MURTAGH: No further questions, Your Honor.

24 MR. NGUYEN: Your Honor, just a couple of  
25 questions.

1 THE COURT: Okay. Go ahead.

2 REDIRECT EXAMINATION

3 BY MR. NGUYEN:

4 Q Mr. Coben, it's good to see you again. Mr. Murtagh  
5 talked about the confusions and significant disruption if  
6 the Court imposes a stay of the confirmation order; you  
7 recall discussing with him?

8 A Yes.

9 Q What would be the confusions or significant disruption  
10 to the Debtors' business if the Court only stays the third-  
11 party release provision as opposed to the confirmation  
12 order?

13 A Well, I think that it's a confusing message, and I  
14 don't think that the layperson would necessarily understand  
15 exactly what that means.

16 So as I talked about a minute ago with respect to the  
17 confusion that it could cause among the consumer community,  
18 the vendor community, the employees of the company, and  
19 others, I think it's -- it's unclear whether or not they  
20 would have the ability to parse that and understand exactly  
21 the difference.

22 Q Did any of those parties reach out to you to have these  
23 discussions, or is that your views just sitting here today?

24 A That's my view.

25 Q Okay. And then Mr. Murtagh talked about

1 indemnification claims.

2 A Uh-huh.

3 Q Have you evaluated any of these claims, whether  
4 indemnification would arise?

5 A No.

6 Q Okay.

7 MR. NGUYEN: Thank you, Your Honor. No more  
8 questions.

9 THE COURT: All right.

10 Mr. Coben, do you -- did you keep track of the  
11 price of the stock at the time of the filing?

12 THE WITNESS: No.

13 THE COURT: Okay. Thank you.

14 All right. Nothing further.

15 MR. MURTAGH: I have nothing further, Your Honor.

16 THE COURT: Okay.

17 You may be excused.

18 All right.

19 MR. NGUYEN: Your Honor, in terms of the evidence,  
20 we have no more evidence to present. I think we can go to  
21 just argument.

22 THE COURT: Okay.

23 Just let me -- Mr. Murtagh, do you have any  
24 additional evidence?

25 MR. MURTAGH: No, Your Honor, provided the

1 declaration has been admitted, we're good to go.

2 THE COURT: Yes. Yeah. So let's make sure we  
3 take care of that. So --

4 MR. MURTAGH: That's Docket -- I think it's 250-1,  
5 Your Honor.

6 THE COURT: 250-1. Okay. So I will admit 250-1.  
7 Mr. Coben's already testified. So the declaration would be  
8 admitted as his direct testimony, subject to a cross-  
9 examination, which just occurred.

10 So 250-1 is admitted for purposes of this hearing,  
11 in addition to the whole record of the confirmation hearing,  
12 which was also admitted.

13 (Exhibit 250-1 received in evidence.)

14 THE COURT: So why don't we argue the motion for  
15 final decree, and then let's consider -- and then -- I mean,  
16 to the extent there's any evidence on the motion for final  
17 decree -- I don't think there is, but to the extent there is  
18 any -- and then we can argue both at the same time.

19 MR. NGUYEN: Okay. Your Honor, there's no  
20 evidence on the final decree motion.

21 MR. MURTAGH: None for -- in addition for us, Your  
22 Honor. Did you want the Debtors to -- reorganized Debtors  
23 to make a presentation on the decree?

24 THE COURT: Well, let's argue them both together.

25 MR. MURTAGH: Okay.



1 THE COURT: So let him go first, and then you can  
2 argue both together.

3 MR. MURTAGH: Got it.

4 THE COURT: Because they're kind of the same  
5 issue.

6 MR. NGUYEN: I apologize, Your Honor. I have a  
7 lot of paper. I look young, but I'm an old soul. I like  
8 paper. Give me one second to get organized here.

9 Your Honor, thank you for hearing our motion for a  
10 stay pending appeal today. The motions and the  
11 corresponding objections and reply, it's fully briefed.  
12 There's a lot said in the pleadings.

13 I think some of it's -- about 40 pages long with  
14 the motion and response, so there's a lot of cites. There's  
15 a lot of case law. My purpose in closing argument is not to  
16 give you all those cites over again. You have them there in  
17 front of you.

18 I'm going to highlight some of those arguments.  
19 I'm going to bring in some of the evidence you heard today.  
20 But at any point, please stop me if you have questions. I  
21 want to make sure all of your -- before I sit down, I answer  
22 all of your questions to the best of my ability.

23 So Your Honor, the United States Trustee has filed  
24 an appeal of this Court's confirmation order allowing the  
25 release of claims belong to non-Debtors against a whole host

1 of other non-Debtors.

2           Some from just reading the plan, these individuals  
3 are unknown. The U.S. Trustee argued that the requisite  
4 consent required for this Court to do so was not met using  
5 the opt-out mechanism in the solicitation procedures.

6           As you recall from the plan, the releases in this  
7 plan are broad. The release of claims include "based on or  
8 related to," that qualifier at the front. And then under  
9 the plan provision, it gives you ten different scenarios of  
10 includes claims that would be released -- things like claim  
11 concerning the management, ownership, or operation of the  
12 Debtor or non-Debtor.

13           And another one, which is very broad -- any claims  
14 concerning the business or operation of the Debtor or  
15 non-Debtor affiliates' arrangement between the Debtor and  
16 any other related entity.

17           Those by definition are extremely broad, Your  
18 Honor, and we opposed it at confirmation. And we were  
19 overruled. Your Honor gave your reasoning for overruling  
20 it. But the U.S. Trustee rejects that -- the notion that  
21 there was consent, especially with the vote tabulation that  
22 came back at confirmation.

23           The Debtors submitted two declarations by Darlene  
24 Calderon. Those declarations are in evidence and regarding  
25 solicitation and tabulation of votes. So who does the Court

1 really found to have consented to these third-party  
2 releases?

3           So Ms. Calderon's declaration provided that 16,968  
4 opt-out forms were sent to holders of claims in interest in  
5 Classes 1, 2, 4, 5, and 8. Only 165 returned opt-out forms  
6 while 16,803 did not return an opt-out form.

7           Under the confirmed order, these 16,803 holders of  
8 claim, including the 297 opt-out forms that were returned as  
9 undeliverable, would have been found to consent to the  
10 third-party releases.

11           As the Court recalled, there is a class of equity  
12 holders in this case under the confirmed plan. This class  
13 of equity holder is entitled to nothing and have their  
14 entire investment in the company canceled.

15           In addition, the Court's confirmation order will  
16 find that these equity holders consented to giving broad  
17 releases not only to the Debtor but to a host of  
18 non-Debtors. And some of the people that they are releasing  
19 are not known at this time.

20           For me, it begs the question really where is the  
21 due process in that if you don't have consent. So Your  
22 Honor, the concern here for the U.S. Trustee is really the  
23 appropriate source of authority for consent and whether that  
24 appropriate authority was applied before this Court  
25 extinguished the rights of thousands of non-Debtors against

1 other non-Debtors.

2 I think I mentioned a confirmation. Really,  
3 bankruptcy is not a vehicle for people to come in and  
4 resolve claims of non-Debtor parties against non-Debtor  
5 parties. It's for the Debtor to come in and reorganize  
6 claims filed against the Debtor and emerge from bankruptcy.

7 It's not a tool for, you know, person X and person  
8 Y who are not involved in the bankruptcy, haven't submitted  
9 themselves to the jurisdiction of the Bankruptcy Court to  
10 get their claims released.

11 Your Honor, the Debtor said that the way the Court  
12 arrived to the conclusion that 99 percent of the thousands  
13 of creditors consented -- and I kind of take issue with this  
14 -- consent to the broad release is settled law within this  
15 District. Judge, I vigorously contest that statement.

16 I personally think if you poll all your judges on  
17 this floor, I know the two judges that do complex cases, you  
18 and Judge Lopez agree on this. But I don't think the other  
19 judges would all unanimously agree that it's settled law in  
20 this District.

21 At confirmation hearing, I think you and I had a  
22 lengthy discussion regarding all the cases around the  
23 country and that courts are taking up. We talked about  
24 Judge Jernigan, we talked about Judge Everett, we talked  
25 about Judge Robson in the Red Lobster case. We talked about

1 Judge Stickles and Lumio. I think she released an opinion  
2 that day. And last --

3 THE COURT: Yesterday, there was Spirit, right?

4 MR. NGUYEN: Yeah, by Judge Lane. And I'd be  
5 completely honest, I told Mr. Murtagh I know the decision  
6 came out. I didn't have the chance to read it yet. I got  
7 the highlights from my colleagues in New York, but I haven't  
8 fully appreciated his decision.

9 So but the point is not for Your Honor to follow  
10 one way or the other. The Supreme Court really sent the  
11 consent issue back to the Court, and the Court is tasked  
12 with determining whether a consensual release is presented.

13 So to say it's settled, I think it's far from  
14 being settled. You know, I remember the Red Lobster case  
15 and Judge Robson in that case says, you know, don't even try  
16 it. Post-Purdue, I'm not going to allow an opt-out.

17 So, Your Honor, to say that it's settled law in  
18 this District for 99 percent of the people that did not  
19 respond to an opt-out form, they consented, they agreed to  
20 give these broad third-party releases to these non-Debtors,  
21 especially in light of the facts in this case where equity  
22 holders really didn't get anything and they gave broad  
23 third-party release to boot in addition to having their  
24 claims wiped out.

25 So but let's go back to the motion for a stay for

1 a second. The standard for the stay is in our pleading, you  
2 know, whether the U.S. Trustee is likely to succeed on the  
3 merits, whether movant suffer irreparable harm if the stay  
4 is denied, whether the issuance of the stay will injure the  
5 other parties and parties, and lastly, where the public  
6 interest lies.

7 I think the Fifth Circuit and Texas Democrat Party  
8 said the first two factors are the most critical.  
9 Additionally, where the government is a party, kind of the  
10 injury and the public interest, they kind of merge together.  
11 And we cited a case law for that proposition in our  
12 pleading.

13 With respect to the first factor, Your Honor, and  
14 I think it's one of the hardest factors to overcome,  
15 especially as the movant, it's our ability to show you that  
16 we're likely to succeed in the merit and you for some reason  
17 that morning woke up on the wrong side of the bed and issued  
18 an erroneous hearing; and then today, you woke up on the  
19 right side of the bed and you saw the errors in your way,  
20 that's really not the standard.

21 It's difficult when you phrase it that way. But  
22 really the standard is that the appellant or the movant need  
23 not show always -- show the probability of success on the  
24 merit. Instead, the appellant only needs to prevent a  
25 substantial case on the merit when a serious legal question

1 is involved and show that the balance of the equities weighs  
2 heavily in favor of granting the stay. And that's from  
3 Arnold v. Garlock. The full cite is in our brief.

4           So there are standards in our brief. And so in  
5 terms of the two factors, we're looking at a serious legal  
6 question. I just want to draw with you on the legal  
7 question that's being asked in terms of consent, in terms of  
8 your ability with a stroke of the pen to wipe and extinguish  
9 a third party's rights that are not involved -- well,  
10 they're involved in this bankruptcy, but they're not the  
11 Debtor; they haven't submitted themselves to the Bankruptcy  
12 Court -- you extinguished claims of other non-Debtors who  
13 are not involved in this case.

14           And Your Honor, I think that first prong is met.  
15 You know, judges around the country are tasked -- are  
16 tackling this issue. Courts are looking at it. And to say  
17 that it's settled and it's something that Purdue didn't  
18 change, I don't think that's right.

19           I don't think judges, even judges in the Fifth  
20 Circuit, Judge Everett in eBay and Judge Jernigan in Eiger  
21 Pharmaceutical came out differently. So really, judges are  
22 coming out with different outcomes based on how they read  
23 Purdue and how they arrive to the source of authority to  
24 extinguish claims of non-Debtor under this umbrella of  
25 consent.

1           Like really the question is, do we have consent  
2 and how we get to that consent. Judge, I would say that  
3 this is a serious legal question. We're talking about,  
4 especially in this case, 16,803 people, whether they have  
5 claims that they know about or those claims are extinguished  
6 under your order.

7           And I think having appellate scrutiny of that  
8 decision, it's not, I don't mean by any offense that yeah,  
9 the Judge is wrong; we should appeal it. It's a serious  
10 question that should be raised and be adjudicated by the  
11 Appellate Court.

12           And second, Your Honor, the balance of equity  
13 weighs heavily in favor of granting the stay. Like I said  
14 here, we potentially have 16,803 holders of claim and with  
15 the stroke of your pen on the confirmation order,  
16 extinguished their claims against other non-Debtors.

17           Respectfully from our view -- and we've argued  
18 this across cases before Judge Lopez, I'm actually like 0  
19 and 9, my argument especially here, but I think it's an  
20 important issue. And we raised consent. We really want to  
21 test that consent and really test the ability of this  
22 Court's authority to do that and whether the Bankruptcy Code  
23 itself authorized Your Honor to do that.

24           And I hear often, and Mr. Coben talked about it,  
25 how integral the third-party releases to the plan are. As



1 we note in our reply, Mr. Coben's declaration in support of  
2 confirmation, which all of the evidence and confirmation is  
3 in, he stated that the transaction -- that parties to the  
4 Transaction Support Agreement may have been unwilling to  
5 support without the third-party releases.

6           The use of the word "may" instead of "would" is  
7 really telling as there is a lack of statement from any  
8 actual parties to the transaction at this hearing. No one's  
9 telling you today in definite terms that they would have  
10 walked from the plan if the third-party releases were not  
11 approved.

12           There's some testimony I think is a little bit  
13 self-serving. We tested it a little bit on cross-  
14 examination. But as Your Honor said, the evidence is in the  
15 documents themselves, in the Transaction Support Agreement,  
16 in the plan.

17           There's nothing that is contingent on the  
18 threshold amounts of claimants not opting out of the  
19 releases as somewhat of a precondition or precedent to the  
20 plan being effective. That's just not in there, the records  
21 in there.

22           So for example, and I just want -- I said I  
23 wouldn't do this, Section 14 of the Transaction Support  
24 Agreement, there's a laundry list of termination events.  
25 Nothing in Section 14 set a threshold amount for opt out.

1 It doesn't say things like, well, if you have 50 percent of  
2 the people opt out, the plan won't be effective or 75, none  
3 of that.

4 And under the Transaction Support Agreement, what  
5 is really effective or important in that plan, it's spelled  
6 out under Section 2, the effectiveness of the agreement.  
7 There's nothing about opt-out threshold.

8 I think one of the primary factors is holders of  
9 66 and 2/3 percent of aggregate outstanding term loan claims  
10 shall have executed delivered counterpart signature of this  
11 agreement to the company parties. That's the requirement --  
12 to get 66 and 2/3 of the term noteholders to sign on to the  
13 deal.

14 There's nothing about opt out in the Transaction  
15 Support Agreement. And Judge, I would also note that  
16 there's nothing in the disclosure statement, the combined  
17 notice, the ballots, or the opt-out forms that indicate that  
18 the plan was in any way contingent on the number of  
19 claimants opting out.

20 As you recall, the solicitation material  
21 specifically says please be advised that your decision to  
22 opt out does not affect the amount of distribution you will  
23 receive under the plan.

24 And the reason why I bring this up, Judge, is, you  
25 know, Judge Lopez confirmed a plan just last week called

1 Tatum Care Service. Very contentious case that came in  
2 during a Super Bowl Sunday. And we spent about two years  
3 litigating that case.

4 In that case, the opt out was really truly  
5 integral to the plan. And that's why I keep on thinking  
6 facts matter. And you have to evaluate the plan and where  
7 the creditors are.

8 In that case, the non-Debtors were contributing as  
9 part of their release upwards of about \$75 million in  
10 financial commitment. And at the voting deadline, if too  
11 many creditors opted out above a certain threshold amount --  
12 and forgive me; I think it was between 90 and 95 percent; I  
13 don't know exactly the amount -- but and in that case, there  
14 was a true opt out, right.

15 So if too many people opt out and they're going to  
16 sue the non-Debtor third party, it wouldn't make sense for  
17 them to throw \$75 million. So there's a real evaluation of  
18 the opt out in that case.

19 And in that case, I think we had about 70 percent  
20 participation as opposed to the 165 out of 17,000 in this  
21 case. You had actual consideration from the non-Debtor  
22 party putting \$75 million of financial commitment.

23 THE COURT: Were unsecured creditors getting paid  
24 in full?

25 MR. NGUYEN: In this case, Your Honor?

1 THE COURT: In this case, they are. In that case?

2 MR. NGUYEN: No, Your Honor.

3 THE COURT: Okay.

4 MR. NGUYEN: There was a trust. So in addition,  
5 you have like 90 days' solicitation period as opposed to  
6 this fast-track prepack track that we were on. And there  
7 were various town halls because of the creditor constituency  
8 in that case by the Debtors, committees, and there was  
9 involvement of other public interest groups.

10 It was a healthcare service. So that's why it was  
11 important to have the 90-day participation. But Your Honor,  
12 I think the importance -- in that case, the integralness of  
13 the opt-out list was a closer call than this one.

14 I think you heard some testimony from the CRO. He  
15 doesn't even know whether 100 percent opt out, whether the  
16 plan was going to be effective or not. It wasn't something  
17 that was considered in the TSA. It wasn't put in the plan.

18 Your Honor, moving on. I heard a lot about  
19 substantial disruption, but nothing in this plan was  
20 contingent on third-party releases. And Judge, I know every  
21 chance the Debtor gets, they tell you that the transaction  
22 is completed, and Mr. Coben, we went through it.

23 He says the transaction, the TSA is completed, the  
24 plan inspected. Presumably, they tell you this to set up  
25 the equitable mootness arguments. That's something we will

1 vigorously defend and we will do that in the Appellate  
2 Court.

3           So if the deal is completed, I just don't  
4 understand the harm or the substantial disruption that may  
5 happen if only the third-party releases injunction and  
6 gatekeeper provisions are stayed.

7           I also heard of the threat of litigation on the  
8 declaration that may happen if Your Honor elected to stay  
9 the confirmation order or the third-party release provision.  
10 Remember, Judge, these Debtors are the ones that came into  
11 confirmation and argued that 99 percent of these creditors  
12 that did not return an opt-out form, they are consenting to  
13 be bound by the third-party releases. We have consent here.

14           But in that same breath, Your Honor, they're  
15 saying, well, Your Honor, if you take away the injunction,  
16 there's going to be all this litigation that will come in.  
17 There are claims against directors and officers that we  
18 might have been -- there might be some indemnification  
19 requirement, but Mr. Coben said he hasn't looked at it.

20           So you know, there's all these claims and  
21 expenses. Really, Judge, they really can't have it both  
22 ways. Like either these people consented and agreed to be  
23 enjoined or they have a bunch of people who didn't --  
24 understood and been ready to sue.

25           I just don't know in terms of, one, they're saying

1 consent; and the other, they're saying, well, these people  
2 are going to sue us if you don't keep these third-party  
3 release provisions intact.

4           Your Honor, I'm almost done here. In balancing  
5 the equities, I think another important factor is we've got  
6 to look at the public interest. Here, the U.S. Trustee is  
7 arguing that Your Honor does not have the authority under  
8 the Bankruptcy Code absent consent to extinguish the claims  
9 of non-Debtor against non-Debtor parties.

10           In this bankruptcy case where equity is getting  
11 absolutely nothing under the plan is required to give broad  
12 third-party releases, the public should have the right to  
13 know whether you have the authority and namely the  
14 jurisdiction to resolve these claims.

15           This is an important public interest that is in  
16 play, and in this case and in all future cases, whether the  
17 Court has the authority to do that.

18           And another important point on the public interest  
19 is -- and I don't mean any disrespect from raising this  
20 argument, but it's the issue of federalism. And I'm not  
21 elevating myself and saying, you know, because I'm a co-  
22 equal branch of government, I should be sitting up there  
23 next to you with a row. I'm not saying that at all.

24           I have too much respect for this Court. So what  
25 do I mean by federalism? The U.S. Trustee is part of a

1 coeca branch of government and we are tasked by another  
2 coeca branch of government, Congress, to maintain the  
3 integrity of the banking system in the way that it's closest  
4 to the text as written.

5 And in exercising our duties, we're saying that  
6 Your Honor does not have their authority under again the  
7 Bankruptcy Code written by another co-equal branch of  
8 government, which is legislation.

9 Your Honor has the right to overrule us, but we  
10 have the right to exhaust our appeal without equitable  
11 mootness arguments running interference and avoiding applied  
12 scrutiny.

13 The public interest here requires that federalism  
14 plays out. And we need to get an answer to this very  
15 important question that, especially in this District where  
16 after-Purdue Courts are wrestling with this.

17 So really does the Court have the authority under  
18 the Bankruptcy Code to extinguish claims of a non-Debtor  
19 against other non-Debtor and whether the opt out provides  
20 that requisite consent for Your Honor with a stroke of your  
21 pen to extinguish these rights.

22 That's the question we're really tasked with  
23 trying to resolve in the Appellate Courts. So Your Honor,  
24 in weighing the equities, and looking at the standard for  
25 imposing the stay, I think the Court at the very least

1 should stay at the third-party release injunction  
2 gatekeeping provision.

3 I just don't see any harm in it. We get these  
4 very conclusory statements about confusion, but there's just  
5 simply no evidence of that. Your Honor, I thank you for  
6 your time this morning for hearing my arguments, and I'm  
7 happy to answer any questions that you may have.

8 THE COURT: No, that's okay. Thank you.

9 MR. NGUYEN: Thank you, Your Honor. Your Honor, I  
10 apologize. Can I just reserve for my final decree argument?

11 THE COURT: Sure.

12 MR. NGUYEN: I totally --

13 THE COURT: I've got all morning so --

14 MR. NGUYEN: Okay.

15 THE COURT: -- I'm going to let people talk until  
16 they want to stop talking.

17 MR. NGUYEN: Thank you, Your Honor.

18 MR. MURTAGH: Good morning again, Your Honor.

19 Hugh Murtagh Latham & Watkins on behalf of the reorganized  
20 Debtors.

21 Just preliminarily, the Office of the United  
22 States Trustee made reference to, and I expect to make  
23 reference to, Judge Lane's opinion in Spirit Airlines. I  
24 have copies printed out if it would be helpful to pass them  
25 up.



1 THE COURT: No, we have it.

2 MR. MURTAGH: Okay.

3 Or would it be helpful for you?

4 MR. NGUYEN: I have it.

5 MR. MURTAGH: Okay.

6 MR. NGUYEN: Thank you.

7 MR. MURTAGH: Then I've just wasted some paper but  
8 apologize.

9 THE COURT: It printed on both sides.

10 MR. MURTAGH: Before I get into the body of the  
11 argument, Your Honor, I just want to reframe what we're  
12 doing here. We're here not arguing the merits of an appeal,  
13 and we're also not here rearguing Your Honor's factual  
14 findings at confirmation.

15 We're here on a motion to stay. So before getting  
16 into that argument, much of what the Trustee's Office just  
17 went through didn't go to the issue whether a stay was  
18 appropriate or whether they had a substantial likelihood of  
19 succeeding on the merits of an argument that opt outs are  
20 impermissible.

21 It was focused on whether, if opt outs are  
22 permissible, there was sufficient reason to do it in this  
23 case, whether the releases were integral, whether the  
24 process was fair based on the number of opt outs that were  
25 returned.

1           Your Honor, that's an argument that was had at  
2 confirmation. And Your Honor's factual findings are the  
3 answer to that argument. And the Trustee's not here on a  
4 Rule 59 or Rule 60. I'm not going to spend more time on it  
5 unless Your Honor directs me to, because I think it's  
6 irrelevant to the current question.

7           THE COURT: No, go ahead.

8           MR. MURTAGH: Thank you, Your Honor. So with  
9 regard to the motion before the Court, which is a motion for  
10 stay pending appeal, I really want to do just two things.  
11 The first is to focus for a minute on the standard, and  
12 second is to apply that standard to this case.

13           So with regard to the standard, Your Honor, as the  
14 Fifth Circuit stated most recently in *Plaquemines Parish*, 84  
15 F.4th 362, at 373, a stay pending appeal is, quote,  
16 "extraordinary relief for which the movant has a heavy  
17 burden," unquote.

18           So we're here on an extraordinary motion, and it  
19 is the Trustee's burden to satisfy the Court that a stay  
20 pending appeal is appropriate. As Your Honor well knows,  
21 and I think we all agree, to obtain that stay, the Trustee  
22 must satisfy all four of the following factors.

23           Again, this is straight from *Plaquemines*. The  
24 first is a strong showing that the Trustee is likely to  
25 succeed on the merits, a strong showing of likelihood of

1 success, that we're not here to discuss whether there is a  
2 colorable argument or whether the Trustee is making some  
3 interesting points.

4 The Trustee is asking for a stay of an order  
5 confirming and allowing to go effective a plan of  
6 reorganization. And in order to get that extraordinary  
7 relief, the Trustee needs to demonstrate that they have a  
8 very good shot of winning this on appeal.

9 Second, the Trustee needs to demonstrate that the  
10 Trustee, the movant, the Trustee will be irreparably harmed  
11 without the stay. We didn't hear any argument on that just  
12 now.

13 Third, the Trustee needs to demonstrate that the  
14 stay will not substantially injure other parties.

15 And fourth, the Trustee must demonstrate that the  
16 public interest favors the stay. One clarification on this  
17 standard. The Trustee argued in its opening brief that in  
18 any case in which the government was involved in a motion  
19 for a stay pending appeal, the factors of harm to the movant  
20 and public interest merged.

21 That rule only applies where the government is the  
22 party opposing the stay, not where the government is the  
23 party seeking the stay. That point was made clear in U.S.  
24 Navy Seals 1-26 v. Biden, 27 F.4th 336 at 353, Fifth  
25 Circuit, 2022.

1           So here, Your Honor, where the government is  
2 seeking to stay, all four factors remain distinct and the  
3 Trustee must satisfy all four of them.

4           For the reasons I'll get into presently, the  
5 Trustee does not satisfy any of them. But the point here,  
6 Your Honor, on the standard itself is that this is not  
7 something where the Debtors, reorganized Debtor bear a  
8 burden or it's an equal playing field. The Trustee bears  
9 the burden of demonstrating entitlement to extraordinary  
10 relief and is falling well short here for the reasons I'll  
11 get into.

12           So starting with the application on a strong  
13 showing of likelihood of success on the merits, the Trustee  
14 fails here for a couple of reasons, Your Honor. To begin  
15 with, the Trustee fails to explain how he has a strong  
16 likelihood of succeeding on the merits in the face of  
17 substantial precedent approving opt outs and rejecting the  
18 same arguments that the Trustee is making here.

19           As we discussed at confirmation, and as Your Honor  
20 well knows, Purdue didn't change anything here. Fifth  
21 Circuit has long prohibited nonconsensual releases. Yet for  
22 that time, pre-Purdue and now post-Purdue, the Courts in  
23 this District have approved opt-out releases provided the  
24 process is robust and fair.

25           So all of the pre-Purdue precedent is relevant and

1 practice is relevant. All the post-Purdue practice is  
2 relevant. That includes Robertshaw, Independence Contract  
3 Drilling, Vroom, and most recently, Your Honor's  
4 confirmation hearing, all of which dealt with the Trustee's  
5 arguments and all of which rejected those arguments.

6 It is, as Judge Lopez stated in Robertshaw, and we  
7 quoted this in the confirmation, what constitutes consent,  
8 including opt-out features and deemed consent for not opting  
9 out has long been settled in this District.

10 So it is settled in this District, at least  
11 according to Judge Lopez. And hundreds of Chapter 11 cases  
12 have been confirmed in this District with consensual third-  
13 party releases with an opt out. That's from Robertshaw, 662  
14 B.R. 300 at 323.

15 The point, Your Honor, is that the Trustee is not  
16 appealing something novel or even seriously contested in  
17 this District. And that matters if the Trustee is trying to  
18 demonstrate that he's likely to succeed with the arguments  
19 that keep failing in this District even on appeal.

20 Similarly, Your Honor, the balance of authority  
21 outside of this District, at least prior to Purdue, as even  
22 the cases that the Trustee cited in its own briefing  
23 recognize, was to approve of opt-out releases.

24 There were minority cases in the District of  
25 Delaware, in the Southern District of New York, all of which

1 recognized that they were bucking majority practice, which  
2 was to permit opt-out releases.

3           Post-Purdue outside of this District, Your Honor,  
4 in the places where Purdue may have changed the law, there  
5 certainly is no groundswell of rejection, right. There's no  
6 nationwide rejection of opt outs. I know the Trustee's  
7 Office is very fond of Smallhold, a very well-reasoned  
8 decision by Judge Goldblatt. That's on one side of the  
9 ledger.

10           On the other side of the ledger, we have an  
11 equally thoughtful opinion just handed down by Judge Lane in  
12 the Southern District of New York addressing both  
13 Smallhold's arguments and everything that's come since  
14 Purdue up to basically yesterday.

15           So you have very thoughtful judges on both sides  
16 of the issue saying, frankly, coming to opposite  
17 conclusions, but I would submit, Your Honor, saying somewhat  
18 of the same thing.

19           Even Smallhold stopped short of announcing a rule  
20 that an opt out could never be permissible. It held that  
21 the opt out was not permissible on the record in that case.

22           Judge Lane did a similar factual analysis in  
23 Spirit Airlines and said, there are concerns, but based on  
24 the facts of this case, the opt out suffices to show consent  
25 for the third-party release.

1           So what you have, Your Honor, is a substantial  
2 body of precedent and a substantially intact body of  
3 precedent that the Trustee must overcome in order to prevail  
4 on appeal.

5           And the Trustee's argument in its briefing is,  
6 well, it doesn't matter because those decisions don't bind  
7 the Appellate Court. But that's not the point, Your Honor.  
8 Of course, the Appellate Court will look at this precedent  
9 and address it because it is the precedent relevant to the  
10 discussion.

11           But we're here in this court to determine whether  
12 the Trustee has a strong likelihood of succeeding when it  
13 gets there. And when we're sitting here, we have the  
14 substantial body of precedent already addressing and  
15 rejecting the Trustee's arguments.

16           How do you show a strong likelihood of success  
17 when the settled law and the weight of precedent has  
18 rejected the arguments? You don't, Your Honor. The Trustee  
19 says that it's a clean slate, but it's not a clean slate.

20           The slate is full of the writing of the Bankruptcy  
21 Courts, and the writing says that opt outs that are properly  
22 noticed and robust are okay. So that's the precedent  
23 problem, Your Honor.

24           Sticking with the merits, the second issue is that  
25 even if it were a clean slate, the Trustee's arguments do

1 not have substantial support. The Trustee's basic premise  
2 is that consent must be determined by reference to state  
3 contract law principles rather than federal bankruptcy law.

4 While it's an interesting concept and it has been  
5 discussed in the cases, there is no precedent holding that  
6 to be true.

7 And frankly, Your Honor, Judge Lane just addressed  
8 and rejected that very argument in Spirit Airlines and  
9 concluded, quote, "The question about whether a creditor has  
10 agreed to certain treatment is a matter of federal  
11 bankruptcy law, with an already existing and well-developed  
12 body of case law on consent in the context of a collective  
13 bankruptcy proceeding."

14 That is -- let me get you the cite, Your Honor. I  
15 shouldn't have put this away.

16 THE COURT: It's 47 pages so --

17 MR. MURTAGH: It's -- the Docket entry is 520 from  
18 case number 24-11988 in the Southern District of New York,  
19 Your Honor. Sorry.

20 Thank you.

21 So that is the most recent statement on the  
22 application of state contract law. There's no contrary  
23 statement that state contract law must apply the rule. Even  
24 Smallhold declined to make that decision, Your Honor.

25 And as we note in our own papers, federal law



1 supplies a sound basis for the application of the law here.  
2 There are many times, even in a bankruptcy case, in which  
3 the basic parameters of an opt out are held to be sufficient  
4 to demonstrate consent.

5           To begin with, Your Honor, the Bankruptcy Code  
6 authorizes negative notice under which Courts may resolve  
7 motions without a hearing if notice is provided and no  
8 hearing is requested timely by the opposing party. That's  
9 11 U.S.C. § 102(1)(B)(i).

10           More importantly perhaps in any bankruptcy case,  
11 as we all know, if you get notice and fail to file a claim,  
12 you lose the claim. If you fail to object to the plan, you  
13 consent to the plan to the extent of any objection you could  
14 have raised as an individual.

15           The District Court here made exactly those points  
16 in, *In re CJ Holding*, 597 B.R. 597, at 609. In both of  
17 those cases, which are not remarkably different, there's a  
18 concept at play.

19           In an inherently collective proceeding where you  
20 are a creditor of the bankruptcy, if you receive notice and  
21 you are asked to take an action or acquiesce from taking an  
22 action, if you acquiesce from doing so, it has consequences.

23           Similarly, Your Honor, in -- as we've discussed, I  
24 think at confirmation and in other cases, this is the  
25 practice under class actions. We are not attempting to

1 import a common law rule of class actions where there is no  
2 collective proceeding.

3           It's about a principle, a concept. In class  
4 actions, claimants can be bound to a covenant not to sue  
5 third parties that is embodied in the settlement if they  
6 receive an opt out and do not send the form back. That's  
7 common ground. It happens all the time.

8           It's the same concept. Party is brought to the  
9 collective proceeding. Party is told if they do not  
10 respond, they will be releasing claims against non-parties  
11 to the settlement, to the litigation. Party does not send  
12 back the opt out, and the covenant not to sue is effective  
13 and enforced.

14           We are here in an inherently collective bankruptcy  
15 proceeding. The Court has authority under the Code, ample  
16 authority to enter orders consistent with the Code and in  
17 furtherance of the plan.

18           And the Court is doing something that is not  
19 different and is within its federal authority, which is to  
20 look at the proposed noticing procedures, determine whether  
21 they are fair and appropriate and calculated to get notice  
22 to the people who needs it, ask that person to make a  
23 decision to opt out or not. And if that person does not opt  
24 out, that person faces the consequences of having not opted  
25 out.

1           It's the exact same thing that is done in a class  
2 action. We are here in a federally-approved collective  
3 proceeding. The results should be no different.

4           To summarize the point, Your Honor, a quote from  
5 Judge Dorsey in Mallinckrodt. He said, ultimately, quote,  
6 "The notion that an individual or entity is in some  
7 instances deemed to consent to something by their failure to  
8 act is one that is utilized throughout the judicial system.  
9 And there's no reason why this principle should not be  
10 applied in the same manner to properly noticed releases  
11 within a plan of reorganization."

12           That's Mallinckrodt 637 B.R. 837, at 87. And  
13 again, Your Honor, the point here is not on a motion for a  
14 stay pending appeal is not whether the Trustee makes a  
15 colorable argument or points worth considering.

16           It's whether based on the body of precedent that's  
17 there and the arguments that it is raising, it has a  
18 substantial likelihood of succeeding on the merits. And the  
19 answer is no. And that alone is sufficient to end the  
20 discussion.

21           But there are equally important points in the  
22 other three factors, and I'll go through them quickly, Your  
23 Honor, or more quickly.

24           The second factor is the irreparable harm in the  
25 absence of a stay. Here again, the Trustee must establish

1 irreparable harm to the Trustee. The Trustee does not  
2 satisfy its burden by speculating about harm to third  
3 parties. It is about harm to the Trustee.

4 The Trustee did not make any argument here about  
5 harm to it before Your Honor. The Trustee's argument in the  
6 papers is that there is a risk of equitable mootness.  
7 That's the Trustee's only argument for irreparable harm to  
8 the Trustee.

9 The problem with that argument is that the case  
10 law is entirely consistent that, quote, "The possibility of  
11 the application of equitable mootness does not demonstrate  
12 irreparable injury," unquote. That's National CineMedia  
13 2003, Westlaw 5030098, at 8 from the Southern District of  
14 Texas.

15 Again, Your Honor, the Trustee makes no attempt to  
16 overcome or even address this infirmity with its alleged  
17 injury. That's the only injury the Trustee alleges as to  
18 itself, and it is not a sufficient basis. Full stop.

19 That ends the inquiry on a motion for stay pending  
20 appeal. There's no injury to the movant. Instead, Your  
21 Honor, the Trustee speculates that other non-moving parties  
22 may be injured. This is entirely speculative. There is no  
23 evidence of any such person.

24 As set forth in Mr. Coben's declaration, the  
25 Debtors are not aware of any party. And as he testified

1 here before Your Honor, Debtors are not aware of any party  
2 that is about to lose its rights.

3 The only conceivable party is a person who has a  
4 claim -- the statute of limitations is about to run pending  
5 the appeal. We are not aware of any such party. You know,  
6 Your Honor, the difficulty of the Debtors' evidence cuts  
7 both ways.

8 Mr. Nguyen keeps saying Mr. Coben couldn't point  
9 to a single person who has said that they are confused or  
10 that wants to bring a claim that has not been able to bring  
11 a claim.

12 Generally, what we are being asked to prove in  
13 this evidentiary hearing is a negative, Your Honor, and it's  
14 very difficult to do, right. It's impossible to do.

15 But what we have put before Your Honor is that as  
16 is relevant to this point, we are not aware of, and the  
17 Trustee has not brought before Your Honor evidence of a  
18 single person who is at risk of losing its rights if a stay  
19 is not entered.

20 It's just speculation, and that's not harm, and  
21 it's certainly not harm to the Trustee. So that's -- there  
22 just is no harm to the Trustee or no demonstrated harm to  
23 any third party. That's the second prong, also equally and  
24 independently sufficient.

25 There is, however, harm to other interested

1 parties, Your Honor. I know Mr. Nguyen had an extended  
2 colloquy with Mr. Coben about the basis for his statements,  
3 but Mr. Coben explained clearly that his statement is based  
4 on his work as a financial advisor, his understanding of the  
5 case, and the risks that he believes are inherent if a stay  
6 is imposed, not if an appeal progresses, not based on this  
7 motion, but if a stay happens.

8 And what Mr. Coben testified to is a number of  
9 things. First, that it was likely to cause confusion among  
10 stakeholders. That testimony, though questioned, is  
11 uncontroverted.

12 Mr. Coben's testimony is that, as is true, the  
13 Trustee has sought to stay the effectiveness of the entire  
14 plan. That plan has been confirmed. The debt is issued.  
15 There's new equity. The reorganized Debtors are operating.

16 What does it mean even conceptually to stay the  
17 whole thing? That's what they've asked for. And they've  
18 asked now for something less, which is just stay the  
19 effectiveness of the release.

20 And what Mr. Coben is saying is if Your Honor  
21 enters an order staying the effectiveness of the plan, of  
22 the confirmation order to any extent, we can't expect  
23 laypeople to appreciate what has been stayed and what  
24 hasn't.

25 And in his view, at least, which Your Honor can

1 take for what Your Honor believes it is worth, that's likely  
2 to be pretty risky to the company, and that's uncontroverted  
3 evidence.

4           The second point that's supported by Mr. Coben's  
5 declaration is that a stay is -- would permit -- upset the  
6 status quo by permitting release litigation to proceed. And  
7 again here, Your Honor, we're being asked to prove a  
8 negative.

9           Nobody has come forward and said, I want to bring  
10 a claim, and I'm being prevented from bringing a claim. And  
11 it's possible nobody will. But what we're dealing with is  
12 risks. And the risk we're addressing is that somebody does.

13           And if somebody or some people do, and they bring  
14 claims against third parties, like directors and officers,  
15 for instance, those third parties will be forced to expend  
16 money defending themselves against a claim that the  
17 Appellate Court may confirm is released, and the money and  
18 the time will be wasted.

19           And it goes to the third point, Your Honor, right,  
20 indemnification. And here Mr. Coben didn't say he hadn't  
21 analyzed indemnification. He was asked if he had analyzed  
22 claims to be indemnified, and of course he hasn't, because  
23 none have been brought.

24           But he testified that the indemnification  
25 obligations exist. And if directors and officers, former

1 directors and officers are sued, they will be entitled to  
2 seek indemnification from the Debtors.

3 And the Debtors will be forced to pay those  
4 expenses. And again, they may be forced to pay those  
5 expenses defending cases that need to be dismissed as soon  
6 as the appeal confirms the efficacy of the release.

7 And once that time and money is spent, it's gone,  
8 and it's not being given back, and it can't actually be  
9 repaired. It may not happen. We hope it doesn't happen,  
10 but it also could.

11 And that is literally, in any quantum, irreparable  
12 harm once the time and money is out the door defending those  
13 cases. So that is real harm to third parties balanced  
14 against no harm to the Trustee and no harm to any real third  
15 party that the Trustee can identify, even if that were  
16 relevant.

17 Finally, Your Honor, that leads to the public  
18 interest, directly to the public interest. As is often  
19 said, and is said in the cases that we relied upon in our  
20 briefing, in a bankruptcy, public interest favors a  
21 successful reorganization.

22 For all the reasons just discussed in the context  
23 of harm to third parties and harm that redounds to the  
24 business itself, imposition of a stay could only harm the  
25 successful reorganization because it could compromise the



1 company, cost its money, cause confusion among its  
2 stakeholders and the public.

3 That would be detrimental to the continued success  
4 of the Debtors and so detrimental to the successful  
5 reorganization. So the last factor also favors the Debtors,  
6 Your Honor, and does not favor the Trustee.

7 Any one of these should be sufficient to end the  
8 inquiry. There's no likelihood of success on the merits, no  
9 strong showing of likelihood of success on the merits, no  
10 injury, literally no injury identified to the movant. That  
11 alone is also sufficient.

12 Uncontroverted evidence of injury to third parties  
13 and the public interest has to lie with the success of the  
14 reorganization.

15 So for all of those reasons, we would respectfully  
16 request that the Court deny the motion for a stay pending  
17 appeal.

18 And I'm happy to move on to the decree, or I could  
19 reserve if Mr. Nguyen wants.

20 THE COURT: No, no. Why don't you go ahead and do  
21 the decree.

22 MR. MURTAGH: Very, very briefly with respect to  
23 the decree, Your Honor. This is just a practicality. We  
24 don't seek to end all of the bankruptcy cases. We want to  
25 close four cases, including the case of the operating

1 company.

2 We would have no objection to those cases being  
3 reopened if they needed to be to make effective any relief  
4 that the Appellate Court ordered. They could be reopened.  
5 But in the meantime, Your Honor, the cases should be closed  
6 because if they're not, principally with regard to the  
7 operating company, but a little bit with regard to the other  
8 cases, they kick off \$250,000 a quarter in fees.

9 And I know it's not the Trustee's intention, but  
10 we essentially become taxed for the pendency of the  
11 Trustee's appeal. And it's money that the company should  
12 not be forced to expend and can't really afford to expend on  
13 something that serves no purpose when we can if we need to  
14 fashion relief later to make sure, if we need to have any of  
15 these cases revisited, we can do it.

16 So for that reason, Your Honor, we would  
17 respectfully request entry of an order, a final decree for  
18 the four named cases.

19 THE COURT: All right.

20 MR. MURTAGH: Unless Your Honor has any questions?

21 THE COURT: No questions.

22 Mr. Nguyen?

23 MR. NGUYEN: Your Honor, I just want to address  
24 the final decree motion. I apologize. I went through, and  
25 I just forgot about it. Your Honor, with the final decree

1 motion, just looking at the words in the text, fully  
2 administered, you have cases where you don't have a final  
3 confirmation order.

4           If you don't have a final confirmation order  
5 that's being subject to appeal, you actually don't have a  
6 confirmation order. So in terms of being able to -- I've  
7 never seen a case where the confirmation order is being  
8 appealed to into whether the District Court or the Appellate  
9 Court, where the Court closes the case.

10           It's really, again, sets us up for that equitable  
11 mootness argument that's going to be forthcoming. And just  
12 looking at the words and the text, fully administered, I  
13 don't think you have a fully administered case unless you  
14 have a final confirmation order.

15           And secondly, I just don't know the extent of  
16 forfeiture law and merger law. These cases are not  
17 substantively consolidated. The plan affects all the other  
18 cases. If provisions within the plan gets overturned by the  
19 District Court, the District Court may not be able to do  
20 that if the case is closed because it might be devoid of  
21 jurisdiction to do so because the case is closed.

22           Your Honor, my purpose here is not to collect  
23 fees. I don't get a bonus. I don't get any of that. It's  
24 just an operation of congress. There's no on and off  
25 switch.

1           We're just reading the text, the rules, and trying  
2 to determine whether these cases are fully administered.  
3 And I just haven't seen a single case. I know the Debtors  
4 cite a lot of cases about substantial consummation, and  
5 there's issues like claims objections or an adversary.

6           Those are kind of ministerial in a sense that, you  
7 know, those are kind of auxiliary issues that happen. But  
8 we're talking about a confirmation order here that could be  
9 overturned.

10           So just looking the text, looking at the advisory  
11 comments to the text, I just don't think the standard has  
12 been met. Thank you, Your Honor.

13           THE COURT: Okay.

14           Anything further?

15           MR. MURTAGH: Not from the Debtor, Your Honor.

16           THE COURT: All right. Thank you.

17           I will take the matter under advisement and issue  
18 a written opinion with respect to the motion for stay  
19 pending appeal.

20           I'm going to go ahead and grant the motion to, you  
21 know, for the final decree. I think that has significant  
22 cost impact on the Debtor.

23           I will also -- I'm going to enter the order, but  
24 I'll submit additional findings and conclusions at the same  
25 time that I submit, that I enter the order on the stay

1 pending appeal.

2 So unless there's anything further, we're in  
3 recess until 4:00 o'clock.

4 (Proceedings adjourned at 10:21 a.m.)

5 \*\*\*\*\*

6 I certify that the foregoing is a correct  
7 transcript to the best of my ability produced from the  
8 electronic sound recording of the proceedings in the above-  
9 entitled matter.

10 /S/ MARY D. HENRY

11 CERTIFIED BY THE AMERICAN ASSOCIATION OF

12 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET\*\*337

13 JUDICIAL TRANSCRIBERS OF TEXAS, LLC

14 JTT TRANSCRIPT #69698

15 DATE FILED: MARCH 14, 2025

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS**

In Re: The Container Store Group, Inc. and The  
Container Store, Inc.  
Debtor

Case No.: 24-90627

Chapter: 11

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Nathan Ochsner  
Clerk of Court