

**Fill in this information to identify the case:**

Debtor Welded Construction, L.P.

United States Bankruptcy Court for the: \_\_\_\_\_ District of Delaware  
(State)

Case number 18-12378

**Official Form 410  
Proof of Claim**

04/16

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**Part 1: Identify the Claim**

1. <b>Who is the current creditor?</b>	<u>Berkshire Hathaway Specialty Insurance Company</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. <b>Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. <b>Where should notices and payments to the creditor be sent?</b>	<b>Where should notices to the creditor be sent?</b> See summary page	<b>Where should payments to the creditor be sent? (if different)</b>
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Contact phone _____ Contact email <u>jbondy@csglaw.com</u>	Contact phone _____ Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. <b>Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <span style="float: right;">MM / DD / YYYY</span>	
5. <b>Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_ \_

7. How much is the claim? \$ 3,977,770.40. Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
  
See summary page

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature or property:**  
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amount should match the amount in line 7.)  
  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

- No  
 Yes. Check all that apply:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_
- Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_
- Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_
- Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

- No  
 Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/28/2019  
MM / DD / YYYY

/s/s/ Jeffrey Stracher  
Signature

Print the name of the person who is completing and signing this claim:

Name s/ Jeffrey Stracher  
First name Middle name Last name

Title SVP Claims

Company Berkshire Hathaway Specialty Insurance  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address \_\_\_\_\_

Contact phone \_\_\_\_\_ Email \_\_\_\_\_



# KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 830-4648 | International (310) 751-2642

<b>Debtor:</b> 18-12378 - Welded Construction, L.P.		
<b>District:</b> District of Delaware		
<b>Creditor:</b> Berkshire Hathaway Specialty Insurance Company Jonathan Bondy, Esq. , Chiesa Shahinian and Giantomasi PC One Boland Drive  West Orange, New Jersey, 07052  <b>Phone:</b> <b>Phone 2:</b> <b>Fax:</b> <b>Email:</b> jbondy@csglaw.com	<b>Has Supporting Documentation:</b> Yes, supporting documentation successfully uploaded <b>Related Document Statement:</b>	<b>Has Related Claim:</b> No <b>Related Claim Filed By:</b>
<b>Other Names Used with Debtor:</b>	<b>Filing Party:</b> Authorized agent	
<b>Amends Claim:</b> No <b>Acquired Claim:</b> No		
<b>Basis of Claim:</b> Indemnity Agreement to indemnify claimant for losses and expenses relating to surety bonds	<b>Last 4 Digits:</b> No	<b>Uniform Claim Identifier:</b>
<b>Total Amount of Claim:</b> 3,977,770.40	<b>Includes Interest or Charges:</b> No	
<b>Has Priority Claim:</b> No	<b>Priority Under:</b>	
<b>Has Secured Claim:</b> No <b>Amount of 503(b)(9):</b> No <b>Based on Lease:</b> No <b>Subject to Right of Setoff:</b> No	<b>Nature of Secured Amount:</b> <b>Value of Property:</b> <b>Annual Interest Rate:</b> <b>Arrearage Amount:</b> <b>Basis for Perfection:</b> <b>Amount Unsecured:</b>	
<b>Submitted By:</b> s/ Jeffrey Stracher on 28-Feb-2019 2:14:35 p.m. Pacific Time  <b>Title:</b> SVP Claims  <b>Company:</b> Berkshire Hathaway Specialty Insurance		

**Fill in this information to identify the case:**

Debtor 1 In re Welded Construction, L.P.

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: District of Delaware

Case number 18-12378 (KG)

Official Form 410

**Proof of Claim**

04/16

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**Part 1: Identify the Claim**

1. Who is the current creditor? Berkshire Hathaway Specialty Insurance Company  
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor \_\_\_\_\_

2. Has this claim been acquired from someone else?  No  
 Yes. From whom? \_\_\_\_\_

3. Where should notices and payments to the creditor be sent? **Where should notices to the creditor be sent?** **Where should payments to the creditor be sent? (if different)**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Jonathan Bondy, Esq. Name \_\_\_\_\_  
One Boland Drive Number Street \_\_\_\_\_  
West Orange NJ 07052 City State ZIP Code \_\_\_\_\_  
Contact phone 973-530-2052 Contact phone \_\_\_\_\_  
Contact email jbondy@csglaw.com Contact email \_\_\_\_\_

Uniform claim identifier for electronic payments in chapter 13 (if you use one):  
\_\_\_\_\_

4. Does this claim amend one already filed?  No  
 Yes. Claim number on court claims registry (if known) \_\_\_\_\_ Filed on \_\_\_\_\_  
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?  No  
 Yes. Who made the earlier filing? \_\_\_\_\_

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

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 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  
Limit disclosing information that is entitled to privacy, such as health care information.  
Indemnity Agreement to indemnify claimant for losses and expenses relating to surety bonds

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
Nature of property:  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
Basis for perfection: \_\_\_\_\_  
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 Variable

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11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
- Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).
- Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).
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- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).
- Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

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Check the appropriate box:

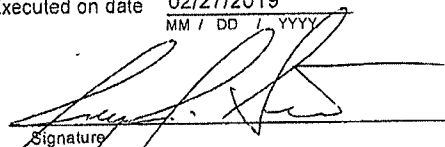
- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/27/2019  
MM / DD / YYYY

  
\_\_\_\_\_  
Signature

Print the name of the person who is completing and signing this claim:

Name Kelly Perry JEFFREY STRACHER  
First name Middle name Last name

Title AVP Surety Claims SVP CLAIMS

Company Berkshire Hathaway Specialty Insurance  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 500 Northpark Town Center, 1100 Abernathy Road NE  
Number Street

Atlanta GA 30328  
City State ZIP Code

Contact phone 770-871-3016 770-871-3010 Email Jeffrey.Stracher@bhspecialty.com  
kelly.perry@bhspecialty.com

## ATTACHMENT

to

Berkshire Hathaway Specialty Insurance Company's Proof of Claim  
In re Welded Construction, L.P., et al.  
Case No. 18-12378 (KG)

### **1. The Basis of the Claim**

Welded Construction, L.P. (the "**Debtor**"), executed an Agreement of Indemnity, on or about May 29, 2018, (the "**Indemnity Agreement**") in favor of Berkshire Hathaway Specialty Insurance Company and its affiliates (the "**Surety**"). A copy of the Indemnity Agreement will be provided upon request with the appropriate proprietary protections.

Pursuant to the Indemnity Agreement, the Debtor agreed to indemnify, exonerate, and hold the Surety harmless from all losses, expenses, costs, professional fees and consulting fees, including, but not limited to, all legal fees and disbursements, incurred by the Surety by reason of having executed any surety bond on behalf of the Debtor or the Debtor's affiliates, or incurred by the Surety in protecting and/or enforcing its rights under the Indemnity Agreement.

The Surety executed a Performance and Payment Bond (the "Bonds") on behalf of, or at the request of the Debtor, each in the penal sum of \$59,555,408.00, in connection with a construction contract between Welded Construction Michigan, LLC and Consumers Energy Company, for a project known as Pipeline Construction for the Saginaw Trail Pipeline Project: Phase 2, 3, and 4. The Bonds were executed, in part, in consideration of the Debtor's execution of the Indemnity Agreement and the obligations it assumed thereunder. Copies of the Bonds will be provided upon request.

The Surety has received claims under the Bonds, and may continue to receive additional claims throughout the course of this Bankruptcy proceeding. At present, the amount of any loss the Surety will sustain is unknown (there is no loss at present), as is the amount of costs and expenses that the Surety will incur as a result of these claims and otherwise in protecting and enforcing its rights under the Indemnity Agreement.

### **2. Description of the Claim**

While the Surety is entitled to assert a claim equal to the cumulative penal sums of the Bonds, under the facts and circumstances of this case, the Surety asserts a claim in the total amount \$3,977,770.40 representing \$1,000,000.00 for potential losses under the Payment Bond and \$2,977,770.40 in potential losses under its Performance Bond.

The \$1,000,000 in potential losses under the Payment Bond assumes the Debtor has outstanding payables to subcontractors for the underlying bonded contract. If the Debtor represents the precise amount of outstanding payables, or alternatively, certifies



that there are no outstanding payables, the Surety will amend the Proof of Claim accordingly.

The \$2,977,770.40 in potential losses under the Performance Bond represents 5% of the penal sum of the Performance Bond (5% of \$59,555,408.00) and is based upon the work known to be completed against the Surety's potential exposure under the underlying bonded contract for deficient work, and the fact that there may still be claims (and warranty claims) under the Performance Bond.

The Surety asserts this claim in the event that the Surety receives additional claims under the Bonds or otherwise incurs losses, costs and expenses for which it is entitled to be reimbursed pursuant to the Debtor's indemnity obligations under the Indemnity Agreement.

The Surety reserves the right to amend and supplement this Proof of Claim and/or to file additional proofs of claim for additional claims.

The filing of this Proof of Claim by the Surety is not intended as, and shall not be construed as: (a) the Surety's admission of any liability or waiver of any defenses or limitation of any rights of the Surety with respect to any claims against any one or more of the Bonds or under the Indemnity Agreement; (b) the Surety's waiver or release of any right to exoneration it may have against anyone in respect of its obligations pursuant to the Bonds; (c) the Surety's waiver or release of its right to be subrogated to the rights of one or more of the parties paid pursuant to the Bonds; (d) an election of remedy; or (e) consent to the determination of Debtor's liability to the Surety by any particular court, including, without limitation, the bankruptcy court.