Docket #0291 Date Filed: 4/6/2026

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

IN RE:	.	Case No. 26-60110-5-wak
	.	
VANDERBILT	.	James M. Hanley U.S.
MINERALS, LLC,	.	Courthouse and Federal Bldg.
	.	100 S. Clinton Street
	.	Syracuse, NY 13261
Debtor.	.	
	.	Thursday, March 12, 2026
. . . . .	.	3:00 p.m.

TRANSCRIPT OF:

MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS UNDER SECTION 363(f) (MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION FOR ENTRY OF ORDERS (i)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, (B) AUTHORIZING THE DEBTOR TO ENTER INTO THE STALKING HORSE AGREEMENT AND TO PROVIDE BIDDING PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES, (E) SCHEDULING A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF AND (F) GRANTING RELATED RELIEF; AND (ii)(A) APPROVING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (C) GRANTING RELATED RELIEF). FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 16)

MOTION TO OBTAIN CREDIT UNDER SECTION 364(b), RULE 4001(c), (d), MOTION FOR RELIEF FROM STAY (MOTION OF THE DEBTOR AND DEBTOR IN POSSESSION PURSUANT TO SECTIONS 105, 362, 363, 503, 507 AND 552 OF THE BANKRUPTCY CODE, BANKRUPTCY RULES 2002, 4001, 6004 AND 9014 AND LOCAL RULES 2002-1, 4001-2 AND 9013-1 FOR INTERIM AND FINAL ORDERS (i) AUTHORIZING THE DEBTOR TO OBTAIN POST-PETITION FINANCING, (ii) GRANTING LIENS AND PROVIDING SUPER PRIORITY ADMINISTRATIVE EXPENSE STATUS, (iii) MODIFYING THE AUTOMATIC STAY, (iv) SCHEDULING A FINAL HEARING AND (v) GRANTING RELATED RELIEF). FEE AMOUNT $199. FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 17)

MOTION TO SETTLE (MOTION OF THE DEBTOR AT THE SOLE DISCRETION OF INDEPENDENT MANAGER AND SOLE MEMBER OF THE INDEPENDENT SPECIAL COMMITTEE OF THE DEBTOR FOR ENTRY OF AN ORDER (i) APPROVING THE GLOBAL SETTLEMENT BETWEEN THE DEBTOR AND R.T. VANDERBILT HOLDING CO., INC. AND CERTAIN OF ITS SUBSIDIARIES; AND (ii) GRANTING RELATED RELIEF) FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 22)

MOTION TO DISMISS CASE / MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO DISMISS THE CHAPTER 11 CASE PURSUANT TO 11 U.S.C. §1112(b) FILED BY OFFICIAL COMMITTEE OF UNSECURED CREDITORS (DOC. NO. 147)

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BEFORE THE HONORABLE WENDY A. KINSELLA
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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For Commodore Materials:
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For the U.S. Trustee:
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For the U.S. Trustee:
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APPEARANCES (Continued):

For R.T. Vanderbilt Holding Company, Inc.:	Lemery Greisler, LLC By: PAUL A. LEVINE, ESQ. 677 Broadway, 8th Floor Albany, NY 12866 Vinson & Elkins By: GEORGE HOWARD, ESQ. 1114 Avenue of the Americas 32nd Floor New York, NY 10036
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For the Official Committee of Unsecured Creditors:	Brown Rudnick, LLP By: JEFFERY L. JONAS, ESQ. ERIC GOODMAN, ESQ. 7 Times Square New York, NY 10036 Caplin & Drysdale By: KEVIN DAVIS, ESQ. One Thomas Circle NW Suite #1100 Washington, D.C. 20005
Audio Operator:	Rachel Sugrue

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

(Proceedings commence at 3:009 p.m.)

(Call to Order)

THE CLERK: Thursday, March 12, 2026. 3:00 p.m. calendar, Case Number 26-60110, Vanderbilt Minerals, LLC. Section 105(a) conference regarding motion to sell property free and clear of liens at Docket No. 16; motion to obtain credit at Docket No. 17; motion to settle at Docket No. 22; and motion to dismiss case at Docket No. 147.

Please note your appearance for the record.

MS. CHAMPION: Good afternoon, Your Honor. Erin Champion on behalf of the United States Trustee and also appearing with me via Teams is Paula Barbaruolo --

MS. LENNOX: Also appearing with the investing counsel, appearing with --

(Parties speaking simultaneously.)

THE COURT: Ms. Lennox. Thank you. Okay. So Ms. Champion, Ms. Barbaruolo on behalf of the U.S. Trustee, thank you.

MS. CHAMPION: Thank you.

MR. JONAS: Good afternoon, Your Honor.

MS. BARBARUOLO: Thank you.

MR. JONAS: Pleasure to be here. Jeff Jonas from Brown Rudnick. With me, my partner, Eric Goodman and also our co-counsel, Kevin Davis from Caplin & Drysdale. My partner David Molton wanted to be here but had a prior commitment out

of town. And I think our *pro hacs* are pending.

THE COURT: I believe that's correct.

MR. JONAS: And we'll take care of that I think when we pay a fee or something and we'll do that right away.

THE COURT: That's correct.

MR. JONES: Thank you, Your Honor.

THE COURT: Thank you. Welcome to Syracuse.

MR. JONAS: Thank you.

THE COURT: Why don't we now turn to the appearances by video? Why don't we start with counsel for the debtor?

MS. LENNOX: Good afternoon, Your Honor. Heather Lennox of Jones Day, proposed counsel to the debtor. And with me on the line are my partners, Matthew Corcoran, Dan Reynolds and my colleague Dick Buchta.

THE COURT: Good afternoon, counselors.

THE COURT: Why don't we start with the in-court appearances and then I'll run through the list.

Local counsel? Local counsel for the debtor?

MR. SULLIVAN: Your Honor, apologies. Charles Sullivan, Greyson Walter, Bond, Schoeneck & King, proposed counsel for the debtor.

THE COURT: Good afternoon.

Okay. Why don't we start then with counsel for Commodore.

MR. AGAY: Good afternoon, Your Honor. David Agay

from McDonald Hopkins on behalf of the Commodore entities.

THE COURT: Good afternoon.

Twin City First Insurance Company.

MR. WEINBERG: Good afternoon, Your Honor. Joshua Weinberg on behalf of Twin City and the other Hartford entities.

THE COURT: Good afternoon.

R.T. Vanderbilt Holding Company, Inc.

MR. HOWARD: Good afternoon, Your Honor. It's George Howard, Vinson & Elkins, on behalf of non-debtor R.T. Vanderbilt Holding Company, Inc., and the other non-debtor affiliates.

THE COURT: Good afternoon.

MR. LEVINE: Good afternoon, Judge. Paul Levine, Lemery Greisler, local counsel for Mr. Howard.

THE COURT: Good afternoon.

MR. LEVINE: And his clients. Thank you.

THE COURT: Anyone appearing on behalf of Pacific Indemnity Company?

MR. COHN: Good afternoon, Your Honor. Jacob Cohn of Gordon & Reese -- I'm sorry -- Plevin & Turner for Pacific Indemnity and Century, the sub-carriers.

THE COURT: Good afternoon.

Counsel for United Steel Paper Forestry and Union?

(No response.)

Is there anyone appearing on behalf of United Steel Paper & Forestry and related International Union Workers?

(No response.)

Okay. Hearing none.

Anyone who would like their appearance noted for the Talc claimants?

(No response.)

Okay. Then we will just open it up to the floor. Anyone who wishes to note their appearance?

MR. BARNOWSKI: Your Honor, Dan Barnowski of Katten Muchin for the independent manager.

THE COURT: Good afternoon.

Anyone else?

Okay. Hearing none, we are here today based on an order at Docket 150 scheduling the status conference regarding scheduling various contested matters at the request of the Committee. I understand from the filing earlier from debtor's counsel, 165, a statement of the debtor in advance of the status conference, that there has been various ongoing meet-and-confers regarding various dates and milestones with respect to the process and what that's going to look like going forward.

And I guess in that regard, since the Committee requested the status conference, we'll hear from the Committee first and then we'll hear back from the debtor.

MR. JONAS: Thank you, Your Honor. Again, Jeff Jonas from Brown Rudnick on behalf of the Official Committee of Unsecured Creditors. Pleasure to be before you for the first time and thank you for allowing our emergency motion and having a status conference today. We appreciate it.

Your Honor, first I just want to orientate -- and I'll be relatively brief today, Your Honor. There's a lot here, but I don't want -- I know there'll be a place and time to deal with most of it, but I do want to cover a few things, as it's our first appearance in the case on behalf of the Committee.

First, I'd like to orientate matters with some important dates. The case, as you know, was filed on February 16th. The debtor filed motions on that date, the petition date, first for approval of its DIP loan; second for approval of bid procedures to sell substantially all, not only of the debtor's assets, but certain non-debtor assets; and third, to settle globally with the parent and certain affiliates. And you actually took some action in certain respects on those motions, Your Honor, but nevertheless, as I understand matters, we have the final DIP hearing and notwithstanding the latest filing by the debtors, at least coming into the hearing, the settlement motion on for next week. There's been a little confusion over the bid procedures, Your Honor. I -- my view was that you left that open for us to

object, so I -- my view was that's also on for next week. And so those -- that's what's on.

The Committee was formed on March 3rd and retained counsel, Brown Rudnick and Caplin Drysdale, on March 5th. Two days later after we were involved and we had interviews. They retained Province as the financial advisor for the Committee and insurance counsel, as well. The Committee served discovery the next day on March 6th, one day after being retained, and filed its motion to dismiss on March 10th, five days after being advised of its retention.

As I mentioned, we did serve discovery on March 6th. That discovery is fairly expansive, as you might expect. It's document production requests, interrogatories, request for admissions on the debtor, the parent, the investment banker and the independent member/special committee. And we've begun -- I believe, maybe late yesterday, I think -- documents are beginning to be produced.

Obviously, Your Honor, we need to intake the documents, do a review and with -- in the normal course of things move on to depositions as appropriate and that's what we would intend to do.

Today is March 12th, Your Honor, and as mentioned, those final hearings on the DIP bid procedures and global settlement are scheduled on March 18th, six days from now. With that, Your Honor, let me just give you the Committee's

initial view of the case and it informs how we'd like to proceed, so I think it's important for schedule.

The debtor, its parent, the holdings entity, affiliates, the CRO, the independent manager/special committee, and all of their many advisors and law firms, including Jones Day, who Your Honor may be aware until May -- I believe it's May of this year -- May of '25 had previously worked for the debtor's parent, the holdings entity, and who, by the way, Your Honor, as you may or may not know, is pretty much the go-to firm for corporate tort feasors seeking to use bankruptcy to avoid tort liability, that represented Johnson & Johnson and three failed bad faith bankruptcy attempts, Bestwall and many others.

Obviously, the professionals here, Jones Day, Bond Schoeneck, Vinson & Elkins and Katten, have been working on preparing for this bankruptcy for many, many months. And likely, although we don't have that information, likely costing millions, if not tens of millions of dollars in professional fees.

There was no urgency, no financial distress, no true operational reorganization, as far as we can see at this point. Rather, they were focused on a singular goal, to deprive tort victims access to the civil justice system and circumvent the U.S. Supreme Court's ruling in Harrington v. Purdue, 603 U.S. 204 in 2024. I'm sure the Court is familiar with the case.

That is, Your Honor, in a nutshell obtaining a non-consensual release of and for non-debtor affiliates. That's what this case is all about. And it's our view, Your Honor, that when you sum it all up, this bankruptcy is a bad faith litigation tactic. Its purpose is not to maximize value for creditors who reorganize as a going concern.

The Bankruptcy Court does have a mechanism for debtors to obtain releases for non-debtor affiliates. It's Bankruptcy Code 524(g). But when they determined including because of the Purdue decision that 524(g) wouldn't work, they designed and implemented what is now before the Court. It's somewhat of a Frankenstein of contorted, overly lawyered, interrelated, intertwined, mutually dependent corporate transactions as a litigation tactic to minimize recoveries to and effectively eliminate rights of severely injured tort victims, many of whom live or unfortunately live not far from this courthouse.

The debtor, its parent and affiliates do this by improperly attempting to take tort victims' claims against non-debtors. Those claims include successor liability, alter ego liability, veil piercing liability claims. They attempt to take tort victims' claims against those -- against non-debtor that tort victims would have the exclusive right to assert outside of bankruptcy and make those claims or argue that those claims are property of the debtor and the tort feasor's estate

and then settle those claims without tort victims' consent.

THE COURT: Mr. Jonas, I apologize. I know this is your --

MR. JONAS: Sure.

THE COURT: -- introduction to the Court. I've read the motion to dismiss and I just -- I don't want to get into --

MR. JONAS: Absolutely.

THE COURT: I realize that you're laying the groundwork for why you need more time and I do appreciate that, but now that you've made that presentation, the debtor is going to want to --

MR. JONAS: Understood.

THE COURT: -- argue their --

MR. JONAS: I get it, Your Honor.

THE COURT: -- defense to the motion to dismiss and then we've just opened up where this was a shortened notice status --

MR. JONAS: Perfectly understood.

THE COURT: -- conference for scheduling. So --

MR. JONAS: Perfectly understood.

THE COURT: -- I've read the papers, I've read the objection to the sale motion.

MR. JONAS: Okay.

THE COURT: So I'm generally familiar with your position --

MR. JONAS: I get it.

THE COURT: -- and why the dismissal you believe should come before all these other things, so --

MR. JONAS: Very good, Your Honor.

THE COURT: -- I don't usually interrupt, but I realize --

MR. JONAS: No, no, no.

THE COURT: -- that that will then trigger a --

MR. JONAS: And I appreciate you having read it. I didn't know whether you would have had time to read it. I appreciate you have.

And I was just going to say, Your Honor, obviously all of this is covered in our motion to dismiss, but I felt a little need to get there, but I'll move on. So let me turn, as the Court desires, to turn more specifically to the scheduling matter at hand.

First, the settlement motion, which is now scheduled to be heard next week on March 18th, 13 days after the Committee retained counsel, which would effectively provide, we believe, an improper Purdue-type release, and that's set forth in Section 5.1 of the settlement agreement where you can see it provides for release of claims based on a theory of veil piercing, alter ego, et cetera, et cetera, Your Honor, even if that type of release was permissible, which we don't think it is, that's a whole set of arguments, which I won't get into.

Another argument which we haven't, I don't believe, had a chance to put forth yet, Your Honor, but we will, is that even if it was permitted that the proposed settlement is not reasonable based on any sort of valuation metric. So we'll get there someday, but that's another argument we're going to make.

In fact, Your Honor, it's somewhat incredible to us that from what we've seen it doesn't appear that anyone even valued those claims. It doesn't -- based on reading Mr. Pickering's material so far at least, it doesn't look like he or his lawyers at Katten did any sort of independent valuation and investigation, for that matter, relating to those claims.

With that, Your Honor, because that settlement agreement is scheduled for next week and in light of what I've just been through with you, I'll just say that it's our view that fundamental fairness and due process requires that the Committee have a reasonable period of time to conduct discovery and prepare for trial. Obviously, the debtor has now taken -- this morning after some discussion has now I think agreed with us and has proposed that that be heard on April 15th, which was a date the Court had given us, probably not expecting there would be as much on for that day, but nevertheless, it was a court date. I'll leave it at that.

And so they've proposed that that date be used -- again, of course, subject to the Court's schedule -- be used to

hear the settlement agreement and the motion to dismiss and we would certainly accept that. That makes perfect sense to us. So I think that piece of any sort of scheduling dispute, if you will, is resolved.

I'll just tell Your Honor and I'll foreshadow where I'm going to get when we get to the remaining motions, which it's our view that the April 15th should, in fact, be an omnibus hearing/trial on all of the matters, which are scheduled for next -- including for next week. So you'd have our motion to dismiss, which -- and I don't have to tell Your Honor obviously if the motion to dismiss is allowed, everything else falls by the wayside, so we would -- we would want the motion to dismiss be heard.

The settlement agreement, if that is appropriate after -- depending on where we end up, we'd also, Your Honor, argue that our objection, if you will, to the bid procedures be carried and we reserve the right to be able to continue to argue against the bid procedures and the final DIP hearing be carried. I'll get to those in a minute. Our position is that those should be carried as well to April 15th. I -- as I said, I think it doesn't give us a lot of time to do a lot of work, but we're prepared to do that. Obviously, we'd waive our -- the requirement that our motion to dismiss be heard in 30 days and we would go forward on all of that on an omnibus basis. I think that would be the most efficient thing to do on

April 15th.

I don't think -- at least with respect to the settlement and the motion to dismiss, I don't think there's any opposition to that.

THE COURT: So while we're having the conversation, so April 15th is a regular court date for the Court. So for an omnibus, that's just not going to work because I have 7s --

MR. JONAS: Sure.

THE COURT: -- 11s, 12s and 13s on that date. We certainly can go out to -- well, probably the 16th.

MR. JONAS: Okay.

THE COURT: May the 16th and 17th. I'm -- obviously we want to -- we'll give debtor lots of time to talk about what they envision, but as an omnibus, I'm assuming that we're talking evidentiary --

MR. JONAS: Yes. Yes.

THE COURT: -- hearing, as opposed to just oral argument and that those will all be intertwined so we're not taking -- if the motion to dismiss isn't granted, we are then flowing into the rest and not duplicating testimony.

MR. JONAS: Correct. That would be --

THE COURT: Is that your intention?

MR. JONAS: That's -- when I say "omnibus," Your Honor, that's what I mean.

THE COURT: Certainly. Okay. I just wanted to make

sure that I understood because certainly the papers had advanced having motion to dismiss first and I wasn't sure if you meant any scheduling --

MR. JONAS: We --

THE COURT: -- after that.

MR. JONAS: I think the nucleus of facts is all the same and --

THE COURT: Agreed.

MR. JONAS: -- it would be very efficient to do it that way. I would expect, Your Honor -- I haven't given it a lot of thought, but based on having done the motions to dismiss in the Arrow case and Johnson & Johnson, one and two, those usually take more than a day, but, you know, we'll see. We'll see how discovery goes and -- but I'll just give you that, at least a little bit of a heads up from my experience, so --

THE COURT: Well, it would probably be this -- hold on. Just let me double-check.

MR. JONAS: You mentioned two days already, so that's good.

THE COURT: I did. One of them I have a conflict with when I gave you the 16th and 17th, but the 16th I could probably get a different -- someone to cover that.

MR. JONAS: Okay.

THE COURT: The 16th and 17th.

MR. JONAS: Okay.

THE COURT: But that's a Thursday, Friday, so I just didn't know if we -- do you expect more than two days?

MR. JONAS: You know, I was thinking coming up -- Mr. Davis and I were discussing and come over -- two days is a pretty good start and we'll -- I think we'll have a much better sense obviously as we start to do some more -- get the discovery done in depositions and whatnot and, you know, we always hope we can stipulate to some of the facts, so I can't say right now. It might be enough.

THE COURT: Okay.

MR. JONAS: I don't want to say it won't be, but we'll have to see.

THE COURT: Okay. And then before we hear -- obviously, we just talked about the main --

MR. JONAS: Yeah.

THE COURT: -- contested matters, but you also hit on --

MR. JONAS: Yeah.

THE COURT: -- a couple of other issues and I will turn to, you know, debtor's counsel. I'm assuming we're going to have discovery and deposition objections, motions to limit -- or quash subpoenas and it sounds like you threw out some concerns, professional appointment objections. Is that something that the Court --

MR. JONAS: Too early for us to tell. I let the --

you know, usually the U.S. Trustee would have views on that and I don't want to step on anybody's toes, but we're going to think about all that as we proceed, Your Honor. So everything you said is certainly correct. Obviously, again, I know I'm speaking for us and I mean, Jones Day is a great firm, have a lot of experience with them, including in many of the cases I mentioned, and we'll try very hard to, you know, work together and not come before you. There may be occasions, of course, as you probably know many of these cases do, privilege issues arise and that type of stuff and we'll just have to see how it goes.

THE COURT: Okay.

MR. JONAS: So I don't know, Your Honor, I was going to turn to some specific arguments relating to the bid procedures and the DIP, but I'm wondering if it wouldn't be better for me to having said what I said sit down and just reserve a little bit to come back, if necessary.

THE COURT: Certainly.

MR. JONAS: Okay.

THE COURT: That will --

MR. JONAS: Thank you, Your Honor.

THE COURT: -- be perfect, Mr. Jonas, thank you.

Why don't we hear from counsel for the debtor?

MS. BARBARUOLO: Thank you, Your Honor. Can you hear me?

THE COURT: I can.

MS. LENNOX: Okay. Great, thank you. For the record again, Heather Lennox of Jones Day, proposed counsel to the debtor. So putting aside the Committee's astonishingly broad specious, *ad hominem* claims without actually having discovery, I'd like to give Your Honor a brief sense of what the debtor has been working on since we were last in front of you on March 4th.

As Mr. Jonas indicated, the Committee was appointed on March 3rd. On Friday, March 6th, we were informed that the Committee had selected Brown Rudnick and Caplin Drysdale as their counsel. Jones Day met with the Brown Rudnick and Caplin and Drysdale team that very night, in the evening. I believe it was 7:00 p.m. on March 6th. And began what the debtor had hoped would be a productive discussion regarding the cadence of this case.

So to that end, Your Honor, on Saturday, March 7th, the very next day, the debtor made its first scheduling proposal to both the DIP lender and the Committee. Importantly, this proposal offered to adjourn the settlement motion until April 15th or the 16th and 17th, as Your Honor just indicated, and the sale hearing, of course, until May 7th. Since that initial offer, the debtor has been both negotiating a schedule with the Committee and the DIP lender and responding to the Committee's discovery requests because we did -- in the

wee hours of the night on March 6th we did get our first set of interrogatories, requests for admission, and 104 document requests served on the debtor by the Committee.

Since receiving that service, Your Honor, the debtor has responded to each of the interrogatories and requests for admission and we have produced over 7,000 documents. Document production is still ongoing, but the Committee has a running start, to say the least.

During this week the debtor has also continued to negotiate with the Committee and the DIP lender in good faith to seek agreement on a schedule and on Tuesday, March 10th, the debtor sent the Committee a revised proposal in response to a counteroffer made by the Committee to our original March 7th proposal.

Prior to submitting this counteroffer, the Committee -- Your Honor, the debtor had obtained the DIP lender's consent to the terms of the offer because, of course, it involves moving milestones, which are in the DIP credit agreement. The offer contained an extended schedule like the one reflected in the statement that we filed this morning that Your Honor referenced at Docket No. 165 and included the following in addition to the extended schedule, and I'll explain the reasons for some of this stuff as we go on.

A proposal that the bid procedures motion and the final DIP order be heard on March 18th and the Committee would,

of course, reserve all rights to object to the sale itself, an agreement from the debtor and the DIP lender that the DIP budget would include three million dollars on account of the Committee's professionals through the expected end of the DIP, which would be through the proposed closing of the sale, that is, 11 weeks. This is not a cap on the fees. This is just a budget for that period of time. Obviously, all this would be subject to Your Honor's approval of fees.

And then the third leg of that relates to the DIP credit agreement, of course, because, as we indicated to extend the schedule, we would have to extend the milestones and to accommodate the Committee professional fees of such a sizeable amount, we would need an additional interim draw under the DIP, which would happen sooner than the proposed final -- final draw.

And so because of the accommodations that would have to be made under the DIP financing, the DIP lender0 proposed an additional exit fee of $500,000 to which the debtor agreed. The proposal was that the Committee would as well.

Just one note on the three million dollars that was part of this package that we were discussing, vis-a-vis the schedule and the DIP lender's consent because that's all in the piece, one note on the three million-dollar proposed Committee budget. That, again, Your Honor, is -- covers only the 11 weeks of the case that we are talking about if Your Honor is

amenable to the proposed schedule that we suggested and, again, it's not a fee cap.

But if you refer to Exhibit A of what we filed this morning at Docket No. 165, which is the professional fee budget which Your Honor had asked for a week ago, in those same 11 weeks the debtor's professionals combined -- so that would be Jones Day, Katten Muchin, Bond Schoeneck, Greenhill and ABS -- were budgeted at approximately 5.9 million, meaning that in those 11 weeks the Committee would be allocated slightly more than half of what the debtor's professionals would be allocated and, of course, the debtor's professionals have a lot more to do to keep the case moving, as Your Honor knows.

I would respectfully submit generally Committee fees come in about a third. Committee budgets are about a third of the debtor's professionals. In special circumstances it can go up to 50 percent, so receiving slightly more than 50 percent is significant.

And again, it's not the budget for the entire case just for the period we're talking about, so this is the offer that we made to the Committee. This is what we reflected in the papers we filed. The DIP lenders approved it and the offer is still on the table.

So let's talk about scheduling the four motions. In the objection to the bidding procedures and again today, Mr. Jonas indicated that he would like everything to be

scheduled for a month from now, the settlement hearing, the motion -- or the settlement motion, the motion to dismiss, the bidding procedures and the final DIP hearing, and there are at least four reasons why this should not happen.

So first, Your Honor, with respect to the sale we have -- we, the debtor, have notice obligations to all of our creditors with respect to the sale of substantially all of the asset -- debtor's assets and we have noticing obligations with -- to contract counter-parties with respect to assumption and rejection decisions and cure costs that are associated with the sale. Those processes require noticing weeks in advance of any sale hearing and I've not heard any objection to a sale hearing occurring on May 7th, so we need to sort of get going on that.

And our proposed schedule sets forth an appropriate time frame for that, so we also need approval of the forms of such notices and the dates that we would put in them. So we think it's very important that we have a bidding procedures motion, which addresses all of this to be heard as scheduled on March 18th.

Secondly, Your Honor, we view the motion to dismiss as an objection to the settlement agreement and maybe half-heartedly to the sale itself. Those are the two motions that it's focused on. In our version of the proposed schedule, the two things that the Committee really seems to care about, the

settlement motion and the hearing to actually approve the sale would occur on the same day as in the case of the settlement motion in three weeks after in the case of the sale hearing, the date that we propose for the hearing on the motion to dismiss, so settlement, the motion to dismiss would be heard as Your Honor indicated on March 16th -- or April 16th, 17th and the sale hearing follows that. So nothing in the relief requested that seems to trigger the most violent reaction from the Committee would precede or jump in front of the motion to dismiss.

But the other relief, the bidding procedures and the final DIP hearing should be heard as scheduled next week. Third, and I'll address the DIP here, by next Wednesday it will have been a month since we filed the DIP financing motion. We've had three interim hearings with respect to it and the DIP lender has been very responsive to the debtor's needs to the Court's guidance and to the needs of this case.

And we will need further relief from the DIP lender. We will need further relief from the current milestones lest the debtor be in default. And we will need to add, as I discussed it, third interim draw before the final draw, which was originally not contemplated, all of which accommodations the DIP lender is willing to make, as long as they get finality.

So it is time for the debtor and its business

creditors to have assurances that it has the financing to finish this process and, I would add, pay the Committee fees, and it's time for our lender to have finality that its loan is fully approved. That's the third reason. And that's why the DIP motion should be heard on a final basis next week.

And then finally, Your Honor, courts routinely hold that the pendency, the mere filing of a motion to dismiss doesn't require that the rest of the proceedings be put on hold until the motion to dismiss is decided. For example, Turkey v. Christie's, Inc., 316 F. Supp. 3d., 675-677 (S.D.N.Y. 2018) or Conn v. New York City, 757 F. Supp. 3d., 327-334 (E.D.N.Y. 2024).

So just because this motion is filed doesn't mean that these cases should be put on hold for a whole host of reasons including that we have an operating business that needs some finality. We have employees. We have customers. We have suppliers that need to know what's going on in this case. We have the process set forth in accordance with the terms of the Bankruptcy Code that would do it. We have agreed to move the whole case an extra month to accommodate the Committee's concerns. We have been exceedingly responsive to the Committee's extensive, in Mr. Jonas's words, discovery requests. And so we -- and we are not asking for the key things that the Committee really wants to investigate to be heard next week. We've agreed that they should be moved. But

the things that are important to the case and to moving the case forward and important to the business creditors whom I would submit to the Committee they also represent and have fiduciary duties, too, you know, move forward as they should move forward in accordance with the schedule. We do have a DIP lender. We have a lender that has been rather patient, exceedingly patient, I would say, but we do have deadlines and this lender is not going to put its capital out there indefinitely.

So this is why we think, Your Honor, it's very important to have what I view as more procedural motions heard next week as scheduled and the key motions that the Committee really wants to dig its teeth into should be adjourned as we've proposed.

THE COURT: Thank you, Ms. Lennox.

Before we turn back to the Committee is there anyone else who wishes to weigh in on the scheduling issue?

MR. AGAY: Your Honor, David Agay on behalf of the Commodore entities. May I speak?

THE COURT: You may.

MR. AGAY: Can I -- can you hear me okay, Your Honor?

THE COURT: We can. Thank you, sir.

MR. AGAY: Great. Your Honor, I just -- I'll be brief. To be clear, the Commodore entities are not agreed to move next week's hearing date nor are we agreeing to move any

of the related milestones. From our perspective this case has been pushed out enough as it is. Your Honor has given the Committee plenty of opportunity to respond to these motions and we're not going to agree to move any of the milestones under the DIP or the APA other than what has been set forth in the debtor's filing for this -- from this morning.

Your Honor, the next thing I say is that Mr. Jonas really hasn't given you any substantive reason to move what are really just procedural motions. And in their pleadings they've, in fact, said that May 8th could work as a sale hearing and if you sort of back out from that, you get all of the other milestones that we and the debtors believe are necessary to give adequate notice of the sale process. So waiting until April 15th and perhaps longer for the bid procedures to get entered just doesn't work from a noticing perspective and from all the other processes that need to go into the marketing auction and ultimately entry of a sale order acceptable to the Commodore entities.

Your Honor, they've tried to conflate in their papers, I believe, the bid procedures with the settlement motion in their motion to dismiss in part by citing some off-handed comments from me on the first day of the case regarding who's idea it was to sell the assets together versus piecemeal.

Your Honor, that's all beside the point and taken out of context. I want to be clear that the deal in front of the

Court today by way of the bid procedures and the sale, that's our deal. We have independently determined that we are only willing to buy these assets as a package, not piecemeal and, thus, it's our idea and that is what is before the Court. That is what the market has brought to the table and as a result, it's time to move forward with these bid procedures. And I don't believe that anybody in this case should get bated into the notion that the bid procedures, which are just processed at this point, Your Honor, are somehow tied into the other arguments the Committee is making for which they will have their day in court around dismissal and around the inter-company settlement.

So, Your Honor, we're not willing to wait until the 15th to resolve these other issues for all of the reasons I just mentioned and all the reasons that Ms. Lennox also stated. Thank you.

THE COURT: Thank you.

Is there anyone else on video who wishes to be heard?

Hearing none.

MS. CHAMPION: Your Honor, I'm sorry --

THE COURT: Oh, I'm sorry. Go ahead, Ms. Champion.

MS. CHAMPION: I was waiting to see if there anybody else on video.

I do have some comments, which is with respect to the retention applications. I didn't know if Mr. Jonas wanted to

respond, you know, to the debtor's comments now or --

THE COURT: Okay.

MS. CHAMPION: Your Honor, as far as the request by the Unsecured Creditors Committee to put the package of the motions that are pending before the Court in abeyance and to be heard in one hearing, the United States Trustee fully supports that, Your Honor.

But in addition to those scheduling concerns, the U.S. Trustee also has some concerns regarding the debtor's request to approve certain professionals under the Local Rule procedures, Local Rule 2014-1, that were filed on March 3rd.

Your Honor, given the posture of the case it seems that it makes sense that those applications should also be heard on notice and for a full opportunity for parties in interest to be heard at a hearing.

Your Honor, professionals retained, as the Court knows, under 327 and 328 must be disinterested and free of conflicts and that disclosure process exists so that the Court and parties can evaluate whether those requirements have been complied with. You know, here in this case the record indicates that certain professionals representing the debtor have also represented the debtor's parent and other affiliates in connection with the matters related to all the transactions that proceeded the filing. And the Court, the U.S. Trustee and stakeholders should really have an opportunity to fully

evaluate the scope of those relationships.

And I would also submit, Your Honor, this would really streamline the process for professionals. I mean, the U.S. Trustee is likely to file an objection. We have 21 days to do that. So it's really not, you know, prejudicial to any party for the Court to required those applications to be put on notice.

That's really all I have, Your Honor. I don't have any comments with respect to the scheduling. I'm going to defer to the Committee's dates on that and again, fully support that.

THE COURT: Thank you. Ms. Champion, did you -- what was your proposal on -- if we were going to hear those? Obviously, those are separate and distinct from an evidentiary hearing or other -- did you have a -- did you have a particular time if the Court was to enter into a global scheduling order in the next couple of days and included those things did you have a time frame of what you needed? And obviously the professionals will need ample time to respond as well and we'll let them weigh in on that also.

MS. CHAMPION: Yes, Your Honor. And I want to make one clarification, too. That's with respect to all the debtor's professionals with the exception of the claims agent, yeah, that -- we can review that on --

THE COURT: Correct.

MS. CHAMPION: Under the Local Rules Procedures. But as far as a date, Your Honor, yes, I think to allow, you know, objections to be filed in response, perhaps it makes sense that that be, you know, part of that omnibus hearing that the Committee suggested.

THE COURT: And so you're also the independent -- Mr. Pickering and this -- all of them --

MS. CHAMPION: Yes.

THE COURT: -- except for --

MS. CHAMPION: The claims agent.

THE COURT: -- the claims --

MS. CHAMPION: Yes, that's correct.

THE COURT: Well, that may be its own separate stand-alone date.

MS. CHAMPION: It may.

THE COURT: On -- okay. Let the Court give that some thought, but thank you.

MS. CHAMPION?: Well, you know, it's just that under the Local Rules if the United States Trustee objects, the Court puts -- requires to put it, so I'm just trying to --

THE COURT: Right.

MS. CHAMPION: -- streamline that and let the Court know we're going to be filing objections. So, you know, however the Court best thinks it fits in within the parameters of anything else that's going on, that is perfectly acceptable

to the U.S. Trustee.

THE COURT: Certainly. And obviously we don't want to get -- we're already pretty far into this and if for some reason someone was conflicted out and determined to be not disinterested, we have a large investment from all of these cases already --

MS. CHAMPION: Yes.

THE COURT: -- given the breakneck speed that they are going, so we don't want to delay that in the event that those objections are found to be disqualifying.

MS. CHAMPION: Yes, thank you, Your Honor.

THE COURT: Thank you.

We'll hear from Mr. Jonas and then we'll turn back to debtor's counsel.

MR. JONAS: Thank you, Your Honor. Again, Jeff Jonas, Brown Rudnick, for the Committee.

Just to start with the easy one, Your Honor, we have no problem with the suggestion by the U.S. Trustee, no objection to the claims agent. The others, you know, we -- I don't really have -- we don't have a position. We're going to be digging into it a little bit more. But if those are also heard in April omnibus, that would be fine with us. But again, I'm not -- I'm just -- that would be find with us. I just want to make it -- advise the Court of that.

Your Honor, let me turn to the last two pieces, the

bid procedures and the DIP motion and the DIP lender was right. I didn't give any substantive argument because I reserved on that, but I'm happy to do it now.

Your Honor, it's our view, as you know, that those also should be heard on April 15th and it's exactly what I expected today, which is the debtor and as usual, the DIP lender. They use these to create really a false sense of urgency in order to, frankly, put pressure on the Court to accelerate this case, the result of which is to deny, in our opinion, fairness and due process to other parties opposing what the debtor is doing here. Of course, I mean, the Committee.

And there are case-control features and important pieces of the bid -- both the bid procedures and the DIP, which I'll explain, that should not be approved now because they would -- and I'll -- let me say this. If -- and then I'll come back and deal with the specific pieces.

If the debtor wants to present this case as a *fair accompli* of intertwined inter-related transactions, that's fine. We're prepared to deal with it on the basis. I think they called it a three-legged stool. But if that's the case, then that needs to be examined that way. It needs to be analyzed that way and it needs to be addressed that way by the Court. It can't be that, yes, this is a three-legged stool, they all go together, they're all inter-related, they're all

intertwined, they need to be looked at that way, but we want to deal with two legs today and one leg later and maybe a third leg another time. That doesn't work.

And frankly, it's inefficient because all of these issues, again, many of these issues, if not all of these issues relate to each other, the same nucleus of fundamental facts. They should all be dealt with at the same time. So let me be more specific rather than general about some of our arguments in terms of what I call case control features, the DIP.

If the settlement agreement is not approved, if it's modified, even if we would have reached some sort of resolution and it was modified, it's a default under the DIP. If there is a loss of exclusivity or there's a plan that the DIP lender doesn't approve, talk about case control features, it's a default under the DIP. And those are the types of features that trouble us because what are we doing here if we're successful on our motion to dismiss, then we have a DIP that's exploded and the -- you know, that -- I appreciate if we're successful on the motion to dismiss the case is over, but the point is same thing with the plan, Your Honor. What if we were to reach -- what if we would have -- whether it's terminate exclusivity or on some other basis file a plan, the DIP lender shouldn't be able to lock in and control important pieces of case through the DIP and we think it's premature to do that next week, rather than a few weeks later when it can be address

in toto.

I'd also say, Your Honor, a few points about the fee issue. First of all, I'm going to respect the sanctity of our settlement discussions --

THE COURT: They still --

MR. JONAS: I don't intend to get into any of the back and forth. I think we've all cut very close to the line already on that, but I'll leave it at that. I'll say this. First, Your Honor, until we started those discussions a few days ago, I think the budget for the Committee was 50 or $100,000.

THE COURT: Fifty.

MR. JONAS: Fifty. Okay. A perfect example of a case control feature, which is, oh, we'll put the Committee on -- or hope to. We would never operate that way, Your Honor. We've been in many cases, frankly. If we have no budget we'll do what we need to do. That's our fiduciary duty and that's what we're going to do.

But to say that -- to come into a case like this knowing what they know, knowing this was going to be opposed and say we were going to have a $50,000 budget, that's a perfect example -- I'm sorry, Your Honor. I don't --

THE COURT: No. They made it perfectly clear on the record, Mr. Jonas --

MR. JONAS: Okay.

THE COURT: -- that that was a starting point and that that was very negotiable, so --

MR. JONAS: Okay.

THE COURT: -- I don't want that to be held against them.

MR. JONAS: Fair enough.

THE COURT: Because that was a --

MR. JONAS: Fair enough.

THE COURT: It was pretty clear from the expressions and the tone that that was simply something that was --

MR. JONAS: Well, I guess I'd ask why do it, why make a start from a ridiculous position and then only when we take them up on it do we start to have a conversation.

I'd also say, Your Honor -- I made this point earlier -- that -- and I guess you can play with numbers and make any argument supported by the numbers. First of all, I think there was some testimony by debtor's counsel that, oh, it's usually the case that a Committee's budget is one-third or 50 percent of a debtor's budget. I don't know what that's based on. We have our own analysis. I don't think it's true. I could, in fact, put forth evidence, which I'm not entitled to do, but I'll leave it at that.

But my point is, Your Honor, as I mentioned earlier, these professionals have been working on this case for nine months. It's not just the -- and I'm guessing have charged

millions and millions and millions of dollars. So to say, oh, there -- we're willing to give them 50 percent of what we're charging in a bankruptcy case when, in fact, they've probably spent a quantum of two, three, four times that to get ready for the bankruptcy case, it's just unfair. Of course, Your Honor, there's the temporal argument as well, which is they had nine months to get ready for this case and, again, I wish somebody could tell me, other than they want to do it this way, what is the rush? Why does the DIP lender need to -- why does the buyer and the DIP lender, why does there need to be a sale on the beginning of May? Why? Is -- and why -- it makes no sense. None of this makes sense, except that this was developed as exactly what we're saying, which is to get to the end result.

So that being said, Your Honor, I just think it's unfair for all the other professionals in the case to have nine months and an unlimited budget and then come in and say, we have five weeks and a limited budget, so to speak.

In any event, Your Honor, I just -- I don't think that argument goes anywhere for them. You know, similarly, Your Honor, we've had no real explanation as to why -- and this goes to the sale and to the bid procedures and then I'll move on, which is why the debtor -- why the debtor has to sell debtor and non-debtor assets, whether in or out of bankruptcy. Why must it be that way, why couldn't they be separated? They

could do one sale in bankruptcy, one sale out of bankruptcy. We could have an allocation -- and why can't there be an allocation of value? There's no allocation here of value between the debtor and the non-debtor assets.

So again, all of this, I believe was designed to make it very difficult for us and to support these arguments that you're hearing today. It has to be this way before the case is over, et cetera.

I appreciate that -- I'm sorry.

THE COURT: Let me ask you a question, Mr. Jonas.

MR. JONAS: Sure.

THE COURT: That was one of the topics and obviously, we're not on a sale or a motion to dismiss the substance, but there was suggestion in these papers about what you just discussed and put on the record in terms of an allocation of the assets by both the stalking horse, as well as any prospective bidders in the auction, in the sale process of this is what the debtor is selling and here's the value.

MR. JONAS: Yes.

THE COURT: Put in 40 million.

MR. JONAS: Yes.

THE COURT: Here's 10 million on the -- and then all of the inter-company claims we can go fight about another day.

MR. JONAS: Yes.

THE COURT: Does that -- would that structure -- if

that was presented by the debtors and their professionals does that structure alleviate your concerns regarding bidding procedures?

MR. JONAS: It would go a long way, Your Honor.

THE COURT: Okay.

MR. JONAS: It would go a long way. I need to talk to our client and --

THE COURT: I understand.

MR. JONAS: But yes --

THE COURT: You raised it, so I just wanted --

MR. JONAS: No, no, no, no, no.

THE COURT: -- to understand.

MR. JONAS: We raised it in the papers and you're right, Your Honor. It would go a long way.

So, Your Honor, let me get to the nub of it, I think, because I've been in this situation many times where the Court may have concerns about delaying entering a final approval orders on both the DIP and the bid procedures and I think that that concern usually and I suspect it's the same here as -- I'm concerned about losing the buyer or the DIP lender.

First, I don't think that's true based on what I've seen today. Just me guessing, but in all my experience I've never seen a buyer, DIP lender walk away when the Court kind of stares them down, and I think that's what's required here. I think sometimes justice simply requires a court to stare down a

buyer and a DIP -- here the same, and a DIP lender. And they decide not to go forward, when so be it. We're not worried about that.

And that's my third point, Your Honor, which is the Committee on behalf of its constituency is prepared to take that risk and accept the consequences of that, which is, you know, when we look at that versus what we see as an improper, illegal scheme to eliminate a tort victim's rights and not provide it with appropriate value, then fine. If they don't want to proceed on a normalized basis including perhaps separating out the assets and allocating value, then don't proceed. But don't come in and tell the Court that it's our way or the highway. Bankruptcy is fairness. It's a process. And the price of bankruptcy is paying the freight. That's how it works. You don't come in and tell the Court what to do. You come in, you pay for professionals, you understand there's a level playing field and you may face opposition and in this case you have to pay for that. That's the price of bankruptcy. And if this buyer/DIP lender wants to use bankruptcy, I assume they think they're getting a pretty good deal and I assume they like getting bankruptcy orders. It's free and clear and everything else. There's a price for that.

And so with that, Your Honor, we'd ask -- and again, for all the reasons I've mentioned earlier in terms of efficiency -- we'd ask that the bid -- the final bid procedures

and the DIP -- the final DIP approval not be heard next week but be continued a few weeks down the road when we can all prepare properly. We can, yes, on a rush basis but we'll do it, get the discovery done, and present the entire case to the Court so the Court can make, in my opinion, a much more informed decision on its motion. Thank you.

THE COURT: Mr. Jonas --

MR. JONAS: Yeah.

THE COURT: -- one thing that you didn't touch on that certainly debtor's counsel hit on. If all of that goes to April 15th from the bidding procedures --

MR. JONAS: Ah.

THE COURT: -- perspective --

MR. JONAS: Yes.

THE COURT: -- the notice isn't going to be sufficient and I thought what I heard was that a May 7th sale, which keep in mind the Court already bumped a month recognizing that you had done --

MR. JONAS: Yes.

THE COURT: -- a tremendous amount of work in the couple of days that the Committee has been formed and appointed and I appreciate -- please don't think that that's not recognized --

MR. JONAS: Understood, Your Honor.

THE COURT: -- by the Court. I know what happens

behind the scene on those things and that the tremendous work that goes into that.

But if I heard you correctly, as to a sale date that that's -- and we're backing into that, then a bidding procedures in April doesn't give any notice to anybody and I would think would be detrimental to the sale process, detrimental to the auction process, but just -- it doesn't flow that way.

MR. JONAS: I have a simple answer, Your Honor. Move the sale date. I appreciate it when we -- when some of the parties before us have appeared. I -- and at least I'll even say for myself, Your Honor, we're fairly confident on a motion to dismiss, so our view is, well, we're not really too troubled or worried about what's down the road, but hearing what I heard today -- and I did make a note. I'm sorry I didn't raise it until you did, Your Honor. I never like to hear "you missed something."

The point is, okay, again, there is no rush here. So if it's -- if the notice -- the notice shouldn't drive a court's decision to, in my view, enter a final DIP order and final bid procedures that are very problematic for us for many of the reasons I've described. It shouldn't be driven by a notice. If it requires that the sale hearing be pushed, whether it's two weeks or four weeks, so be it and it will be noticed up properly and that's how it should proceed.

THE COURT: Thank you.

MR. JONAS: Thank you.

THE COURT: Ms. Lennox, did you want to respond? We have a -- obviously maybe go in reverse order and then we will need to get to the issues raised by the U.S. Trustee in terms of the professional retention, so I will turn it back to debtor's counsel.

MS. LENNOX: Thank you, Your Honor. I was going to suggest perhaps that I address Ms. Champion's issue first.

THE COURT: Sure.

MS. LENNOX: And you know, it seems to me that there -- the applications were filed on the 3rd. If you give 21 days' notice for objection under the procedures, the objections are due on the 24th, and so -- and you are correct, Your Honor. The professionals would need -- who are subject to those objections would need time to respond. And so I don't know what Your Honor's calendar looks like, you know, the week of the 30th or -- of March 30th, for I know that Your Honor had at one point said that April 7th was free. But I agree with Your Honor if this is going to be -- from what we've talked about today, even if the debtor's proposal is approved by Your Honor or something like it is approved by Your Honor, I think that hearings on the 16th and 17th will be rather full. So my guess is we would want to have that -- any issues that Ms. Champion raised is taken up prior to those days.

THE COURT: Well, I'm not scheduling. The Court actually has March -- Monday, March 30th or Tuesday, March 31st. I had looked at those dates. Not sure if anyone was going to waive the 30-day requirement with respect to the motion to dismiss, recognizing that that wasn't going to be close to enough time.

So I guess I would throw those out there. And again, recognizing if there is a disqualification that people are spending a lot of time and investing a lot in this case, so if we are at the 12th now and also recognizing that Ms. Champion and Ms. Barbaruolo have a few -- two large cases and have been in addition to the regular caseload that they handle, I'm not sure how -- I don't know if you have an idea, Ms. Lennox, how much time you would need if we back into a date if we held a hearing on the -- we might need both dates if we have how many professionals? I mean, there's what, eight? Seven, eight?

MS. LENNOX: I should think it shouldn't take that long, Your Honor, but I'm happy to hold however much time, you know, the Court thinks is appropriate.

THE COURT: Well, my -- if we did an objection due in a week, Ms. Champion, I know that you have 21 -- no?

MS. CHAMPION: Your Honor, I didn't want to, you know, waive the U.S. Trustee's rights under the Local Rule, you know. So if we want to stick to the procedures under the Local Rule then we can do that, you know, and I have until the 24th

to object and then we can schedule a hearing after that, but a week is not going to be enough time for my office, Your Honor.

THE COURT: Well, let's see what we've got. Well, how about the 24th is an objection deadline; 31st is the response deadline of March; and Thursday, April 2nd, for a hearing?

MS. CHAMPION: Your Honor, that works for the United States Trustee. That -- you know, that still gives us the right -- the same amount of time under the Local Rule, but then allows for a hearing as well and the professionals to submit a response, so I'm fine with those dates.

THE COURT: Ms. Lennox, does that make sense to you?

MS. LENNOX: It does, Your Honor. I would also defer to my co-counsel, Mr. Sullivan, as well for his thoughts on that.

THE COURT: Mr. Sullivan?

MR. SULLIVAN: Your Honor, yes, that's workable.

THE COURT: Okay. Yeah, and I don't want to drag those out if there is real issues we need to get to the bottom of that, sooner rather than later. That --

MR. CHAMPION: And, Your Honor, just to clarify, I mean, the reason why I think it's important to, you know, have it on notice on a hearing because, you know, this is the estate's dollars, you know, and the U.S. Trustee is tasked with, you know, determining whether the representation is

appropriate. And we don't -- my office doesn't want to be the only constituency raising, you know, an objection to those issues that are so crucial to the case. That's the basis for my request, Your Honor.

THE COURT: No, absolutely, Ms. Champion, and the Court shares that and ultimately the Court is the one signing off on an order and there's obviously a lot of longstanding relationships between debtor's affiliates, professionals that need to be vetted out.

So I guess I would impose upon debtor's counsel to -- we have a noticing agent, but to issue a notice of -- with the hearing on those. I mean, the Court can issue a text order, but I don't know if that's going to be the same.

MS. LENNOX: We'd be happy to do a notice of hearing, Your Honor.

THE COURT: That would be wonderful with the deadlines that we just talked about and then we would commence at 10:00 on April -- what did I say -- April 2nd.

MR. JONAS: 2nd.

MS. LENNOX: Thank you, Your Honor.

THE COURT: Thank you.

MR. SULLIVAN: Yes, Your Honor.

THE COURT: I'd like that to kind of be a stand-alone separate and distinct than the other motions to dismiss and things, so they don't get confused and more intertwined than

they already are here.

MS. LENNOX: Understood.

THE COURT: Okay. So thank you, Ms. Lennox. So that deals with the U.S. Trustee issues. And then I assume that you would like to respond with respect to the --

MS. LENNOX: Just --

THE COURT: -- presentation from the Committee by Mr. Jonas?

MS. LENNOX: Sure, just very briefly. I've already stated why I think it's critical that we have the bidding procedures next week. Let me focus a little bit more on the DIP financing.

So milestones -- it is -- it is -- I am not aware of a DIP financing that has occurred in the last two decades that didn't have milestones in them. If somebody is going to come out of pocket for capital to help a faltering debtor get through their process, they're going to act like a lender would act. It's very common for lenders to have things like security interests and negative covenants in bankruptcy cases milestones so that things don't drag on, so there is nothing unusual about this. There is nothing untoward with respect to this.

You know, Mr. Jonas referenced, well, you know, you have to pay the price. I would submit to Your Honor that the price has been paid. This DIP lender has already lent the debtor six-and-a-half-million dollars from interim hearings.

It has another eight-and-a-half-million dollars on the table. It has responded positively and constructively to all of the suggestions that the Court has made with respect to timing. And so the price, such as it needs to be, I believe, if it had to be, has been paid.

What strikes me, Your Honor, is that it's very easy for somebody who -- to get up and throw stones at what a debtor and his lender are trying to put together. It's very difficult to come up with a reasonable alternative. I hear no alternative from Mr. Jonas or his client other than, well, just let us default and then if that happens, there'll be an exercise of remedies against the collateral by the DIP lender. That is a game of chicken that the debtor and its employees and its customers and its suppliers are not willing to take because that is the game of chicken and there is no credible alternative to this.

So again, the DIP lender has been incredibly responsive in accommodating the needs of the debtor, the concerns of the Court, the concerns of the Committee. And it is time to put financing -- because it is just that -- financing to bed in this case.

One word on budgets. I heard a lot about unlimited spending and the debtor's -- you know, all this money being spent. I assure you as we discussed on the first day of this case, this is a debtor that has 65 million dollars in annual

revenues. Not EBIDTA. Revenues. This is a company that has limited resources. We are not asking for a DIP like you normally see in cases of tens and hundreds of millions of dollars. This is a modest DIP. This is a small case. This is not a case like MRS or some of the -- Arrow or some of the other cases that Mr. Jonas and his firm may be involved in where it is going to bear unlimited and wasteful spending and Your Honor frankly has quite rightly admonished the debtors about that in prior hearings.

And so the longer this goes on without a credible alternative in sight that will preserve these businesses, preserve these jobs, preserve suppliers, customers, take care of our environmental obligations, all those things that are necessary for a business, the more likely that catastrophe can happen and that's just not a game of chicken that the debtor is willing to pay and frankly, we don't think the other parties in the case should be either.

So we think that it's very important that these two motions, again, that do not get to the heart of what the Committee is concerned about here should go forward next week.

THE COURT: Thank you.

MR. AGAY: Your Honor, it's Dave Agay. May I just say something for a minute?

THE COURT: Certainly.

MR. AGAY: Okay. Thank you. David Agay on behalf of

the Commodore entities.

Your Honor, just based on the dialogue from Mr. Jonas, from the debtors, from Your Honor, this is kind of the point where our interest starts to allied, even from the debtors and from the other parties. And where I need to start advocating for my client and their economic interests in the case on a stand-alone basis.

And what I mean by that specifically, Your Honor, is the commercial deal we set forth by way of the DIP and the APA is very down the middle and standard for these types of cases. And for Mr. Jonas to suggest that there's any abnormality or jamming of anybody appearing in the case is, at best, disingenuous, at worst completely cynical.

Mr. Jonas and his firm represents plenty of buyers like me in these cases. I am sure that we can present reams of precedent, as counsel for the debtor suggested, regarding an appropriate time frame for these cases.

I can also present evidence, Your Honor, that the DIP that we put before the Court is economically advantageous to the estate relative to other DIPs that are often seen in these cases. We're not charging a lot and the reason is that we want to buy the company. That's why we're providing the DIP.

And that kind of gets to the last point, Your Honor, that I'd like to make where Mr. Jonas said, well, we're willing to take that risk if the cases blow up. Yes, this is a -- this

is an exercise in part in risk management, but it's not a risk that the Court even needs to take. Mr. Jonas has already moved to dismiss the case, so he is on the record of willing to blow up the case, so you don't need to move the other deadlines next week and take the further risk that the cases and even before April 15th. Your Honor, Mr. Jonas then said he wants to move the sale hearing back.

So by the time we're all done, my client's capital will be entangled in these cases for more than three months, maybe more than four months by the time we're done. And that is a vastly different economic transaction than what we negotiated going into this case. And candidly, as of today, we don't have the stomach for that and I don't know why it makes any sense to move any of the milestones around other than what's been presented by the Court so that we have to go then reevaluate how we are going to manage our investors' capital on a go-forward basis.

None of this makes much sense to us, Your Honor, and, you know, we look forward to understanding where the case goes from here. Thank you.

THE COURT: Thank you, counselor.

Is there anyone else who wishes to be heard?

MR. HOWARD: Just very briefly, Your Honor. It's George Howard, Vinson & Elkins, on behalf of the non-debtor parent company, R.T. Vanderbilt Holding Company, Inc.

I agree with obviously the debtor and the buyer here about the schedule. Your Honor heard extensive testimony and evidence about the budget, about the need for cash, the need for the DIP. Committee counsel has offered no evidence whatsoever today. Frankly, a lot of broad statements. Frankly, I think as they get more information they will find many of those not to be true. This is not a Johnson & Johnson case. It is so far from those facts, so far from that size. I think Your Honor should go forward with the hearings on 18 -- as previously scheduled based on evidence that was put into the record. And if at the end of that hearing Your Honor chooses to make a decision on those, obviously you could do that, but I see no reason to change the schedule. Thank you.

THE COURT: Thank you.

Anyone else? It is about 4:10 right now. The Court is going to take a 15-minute recess and then we'll come back and issue its ruling on a schedule.

MR. JONAS: Thank you, Your Honor.

THE COURT: Thank you.

THE CLERK: All rise. Court will take a brief recess.

(Recess taken at 4:08 p.m./Reconvened at 4:25 p.m.)

THE CLERK: All rise. You may be seated. Continuing with the 3:00 p.m. calendar.

THE COURT: Thank you all and thank you for making

the trip here to Syracuse today and introducing yourself on behalf of the Committee.

The Court has had the time to consider all of the record before it today and agrees, quite frankly, with Mr. Howard's comments that by maintaining the DIP and the second half of the bidding procedures hearings the Court still reserves the right to deny adjourn or grant the relief requested on March 18th or thereafter. And by maintaining that court date it should not convey anything else to the parties before it.

With that said, the Court does have an initial impression on bidding procedures that was raised by the Committee in that the debtor needs to be prepared to answer why a sale in bankruptcy, a debtor -- non-debtor assets is required as opposed to a 363 sale of debtor's assets with an out-of-court sale of affiliates with a purchase price allocation.

The Court understands the pressure this puts on the Committee and Committee counsel, but as the Committee counsel's filings have already demonstrated through its motion to dismiss and its sale objection that it will be well prepared to argue its objections on Wednesday. We do have to balance those pressures and the time involved with those requests for extensions with a need to move this case forward to make sure that we aren't lingering beyond the cash flows for this debtor to make sure that we have some assets for this estate in the

long run.

We had the current hearing on March 18th at 2:00, which is next Wednesday. We do need, I believe, an additional deadline for supplemental responses to the bidding procedures to make sure those can be properly vetted at the hearing and the Court -- I don't believe that those are already in an existing order that we could find because it -- the first part was already granted, so the Court was inclined to give until 12:00 on the 17th, a day before.

Quite frankly, there have already been set forth between the parties' papers, so that shouldn't catch the debtor by too much surprise in terms of what those are going to be, and the U.S. Trustee also had filed objections that I assume will be adopted by the Committee as well, so those are -- there's no surprise in what those would be.

Mr. Jonas, did you have a question on that?

MR. JONAS: I was just wondering, Your Honor, is the 12:00 p.m. on March 17, that's for our -- well, mainly our objection to the bid procedures -- is it also the DIP?

THE COURT: Yes.

MR. JONAS: Okay. Thank you. No further questions.

THE COURT: Yes. And in -- do we have another deadline -- we'll adjust the deadlines to the extent that there's a conflicting court order. You haven't weighed in on the DIP --

MR. JONAS: Yes.

THE COURT: -- at this point, so we are certainly --

MR. JONAS: Thank you, Your Honor.

THE COURT: -- trying to give you as much time while still allowing the Court to properly prepare, as well as the debtor and the other parties to understand the position before we proceed.

MR. JONAS: Thank you, Your Honor.

THE COURT: Certainly.

The Court would be inclined to request from debtor's counsel a Word version of the Docket 165, just the chart, so the Court can put a court order together with those deadlines with the -- making the hearings on the settlement motion, a motion to dismiss April 16th and April 17th. I don't think that anything else in that chart needs to shift, but I just wanted to make sure that the debtors agree with that before the Court started ordering things that didn't make any sense to debtor's counsel. So I don't know if they need additional time to digest that before they submit perhaps a proposed order in Word form for that to make sure there's no shifts to weekends or holidays or anything else like that.

Ms. Lennox, did you have any thoughts on that?

MS. LENNOX: (No audible response.)

THE COURT: Oh, you must be on mute.

MS. LENNOX: Sorry, Your Honor. Yes, I was.

Yes, we'll take a look at that, Your Honor, for weekends and if there is anything other than what Your Honor just articulated with respect to the hearing date, we will communicate that.

THE COURT: Thank you. And the only other line item that needed -- needs to be added to that from a scheduling prospective is the 12:00 on March 17th objection to the --

MS. LENNOX: Right.

THE COURT: -- bidding procedures in the final DIP hearing.

MS. LENNOX: I'm sorry, Your Honor. The objection to -- oh, I see what you're saying. Yes, yes, yes.

Okay. Your Honor, so you are not anticipating a formal written reply from the debtors to those two motions, the bidding procedures and the DIP for whatever the Committee puts forth?

THE COURT: At this point, Ms. Lennox, I don't think that the time allows that to put the Committee under additional -- that's right around the corner here. We are -- no, I don't expect any replies. Let's -- we'll back up to that. Given the time frames, I think we'll just have to hear your reply in court.

MS. LENNOX: Sure. Okay. Thank you, Your Honor.

THE COURT: Thank you. So we will look to you for that proposed order, Ms. Lennox. And again, if you want to

submit that to chambers in Word in case we have any other tweaks, that would be very helpful.

And we will hear from everyone back on next Wednesday at 2:00.

Is there anything else with respect to the status conference that the Court -- again, any upcoming -- we had a preview on some issues with professional retentions, as well as I understand the parties will meet and confer and attempt to resolve any discovery issues. Is there anything else from the debtor's perspective that the Court should be aware of or anticipate so we have knowledge of anything coming down the pike?

MS. LENNOX: Not that I'm aware of at this time, Your Honor.

THE COURT: Thank you.

Mr. Jonas, anything from the Committee?

MR. JONAS: No, Your Honor, thank you very much for your time today.

THE COURT: Thank you.

Anything from anyone else online?

(No response.)

THE COURT: Okay. Well, thank you all for your time, counselors.

MS. LENNOX: Thank you, Your Honor.

THE CLERK: All rise. Court is adjourned.

C E R T I F I C A T I O N

I, RUTH ANN HAGER, court-approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Ruth Ann Hager

RUTH ANN HAGER, C.E.T.**D-641

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