Docket #0678 Date Filed: 5/27/2026

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
Debtor.	.	Syracuse, NY 13261
	.	
	.	
	.	Thursday, May 21, 2026
. . . . .	.	10:03 a.m.

TRANSCRIPT OF:

SECTION 105(A) CONFERENCE (DOC. NO. 649)

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 POSTPETITION FINANCING, (ii) GRANTING LIENS AND PROVIDING SUPERPRIORITY 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 OF THE DEBTOR AND DEBTOR IN POSSESSION FOR INTERIM AND FINAL ORDERS (i) AUTHORIZING THE DEBTOR TO REFINANCE ITS POSTPETITION FINANCING, (ii) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS, (iii) MODIFYING THE AUTOMATIC STAY $199 (iv) SCHEDULING A FINAL HEARING, AND (v) GRANTING RELATED RELIEF FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 554)

MOTION TO EXTEND TIME (MOTION FOR ENTRY OF AN ORDER EXTENDING THE PERIOD WITHIN WHICH THE DEBTOR MAY REMOVE ACTIONS PURSUANT TO 28 U.S.C. SECTION 1452 AND RULE 9027 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE) FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 482)

MOTION TO EXTEND TIME TO ASSUME OR REJECT LEASES OF NON-RESIDENTIAL REAL PROPERTY AND FOR ENTRY OF BRIDGE ORDER FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 607)

EMERGENCY MOTION FOR RELIEF FROM STAY DEBTORS EMERGENCY MOTION FOR ENTRY OF STIPULATED ORDERS GRANTING LIMITED RELIEF FROM THE AUTOMATIC STAY AUTHORIZING CERTAIN INSURANCE-RELATED PAYMENTS. FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 623)

MOTION TO EXTEND EXCLUSIVITY PERIOD FOR FILING A CHAPTER 11 PLAN AND DISCLOSURE STATEMENT FILED BY VANDERBILT MINERALS, LLC. (DOC. NO. 605)

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

APPEARANCES:

For Debtor:	Latham & Watkins LLP By: KIMBERLY A. POSIN, ESQ. 1271 Avenue of the Americas New York, NY 10020 Latham & Watkins LLP By: ELIZABETH MARKS, ESQ. 200 Clarendon Street Boston, MA 02116 Bond, Schoeneck & King, PLLC By: CHARLES J. SULLIVAN, ESQ. GRAYSON WALTER, ESQ. ANDREW RIVERA, ESQ. One Lincoln Center Syracuse, NY 13202-1355
Official Committee of Unsecured Creditors:	Brown Rudnick LLP By: SUSAN SIEGER-GRIMM, ESQ. Seven Times Square New York, NY 10036 Caplan & Drysdale Chartered By: KEVIN M. DAVIS, ESQ. 1200 New Hampshire Ave. NW, 8th Fl. Washington, DC 20036
For the London Market Insurers:	Skarzynski Marick & Black LLC By: NATHAN W. REINHARDT, ESQ. 333 S. Grand Avenue, Suite 3550 Los Angeles, CA 90071
Audio Operator:	Colleen Johnson

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

APPEARANCES CONTINUED:

For the U.S. Trustee:	Office of the U.S. Trustee U.S. Department of Justice By: PAULA M. BARBARUOLO, ESQ. Leo O'Brien Federal Building Room 620 Albany, NY 12207
For R.T. Vanderbilt Holding Company, Inc. and VM Buyer, LLC:	Vinson & Elkins LLP By: LAUREN KANZER, ESQ. 1114 Avenue of the Americas, 32nd Fl. New York, NY 10036 Lemery Greisler, LLC By: PAUL A. LEVINE, ESQ. 677 Broadway, 8th Fl. Albany, NY 12866
For Commodore Materials Funding, LLC and Commodore Materials, LLC:	McDonald Hopkins LLC By: DAVID A. AGAY, ESQ. 300 North LaSalle Street, Suite 1400 Chicago, IL 60654
For Riverspan Partners LLP:	Milbank LLP By: LAUREN DOYLE, ESQ. 55 Hudson Yards New York, NY 10001
For Twin City, Hartford Accident and Indemnity, and First State Insurance Company:	Ruggeri Parks Weinberg LLP By: JOSHUA P. MAYER, ESQ. 1875 K Street NW, Suite 600 Washington, DC 20006
For Pacific Indemnity Corporation:	Plevin & Turner LLP By: JACOB C. COHN, ESQ. 132 W. 31st St., Suite 9th Fl. New York, NY 10001
For United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union:	Cohen, Weiss and Simon LLP By: MATTHEW STOLZ, ESQ. 909 3rd Avenue, 12th Floor New York, NY 10022
For Pension Benefit Guaranty Corporation:	Pension Benefit Guaranty Corporation - Office of the General Counsel By: DANIEL ROBERTSON, ESQ. 445 12th Street, S.W. Washington, DC 20024-2101

(Proceedings commence at 10:03 a.m.)

(Call to Order)

THE CLERK: You may be seated. Thursday, May 21st, 2026, 10:00 a.m. calendar, Case Number 26-60110, Vanderbilt Minerals, LLC. We have several matters on.

Docket Number 17, motion to obtain credit under Section 364(b) and motion for relief from stay and related relief. Docket Number 554, motion of the Debtor and debtor-in-possession for interim and final orders and related relief. Docket Number 482, motion to extend time. Docket Number 607, motion to extend time to assume or reject leases of non-residential real property and entry of bridge order. Docket Number 623, emergency motion for relief from stay, Debtor's emergency motion for entry of stipulated orders granting limited relief from the automatic stay, authorizing certain insurance related payments. Docket Number 646, motion to stay pending appeal, and Docket Number 605, motion to extend exclusivity period for filing the Chapter 11 plan and disclosure statement. Please note your appearance for the record?

THE COURT: Good morning, Counselors. Why don't we start with the Debtor.

MS. POSIN: Good morning, Your Honor. Kim Posin of Latham & Watkins, counsel or proposed counsel for the Debtor. Along with me today is my partner, Betsy Marks.

THE COURT: Good morning.

MS. MARKS: Good morning.

MR. SULLIVAN: Good morning, Your Honor. Excuse me. Good morning, Your Honor. Charles Sullivan, Bond, Schoeneck & King, appearing along with Grayson Walter and Andrew Rivera, co-counsel to the Debtor.

THE COURT: Good morning. Counsel for the Committee?

MS. SIEGER-GRIMM: Good morning, Your Honor. Susan Sieger-Grimm, Brown Rudnick, for the Committee, and I believe my co-counsel, Kevin Davis, from Caplan is online.

THE COURT: Good morning, Counselor.

MR. REINHARDT: Good morning, Your Honor. Nate Reinhardt of Skarzynski Marick & Black. We represent a bunch of insurers in this case, but for the particular matter today, it's London Market Insurers. Thank you.

THE COURT: Good morning, Counselor. The United States Trustee's Office?

MS. BARBARUOLO: Good morning, Your Honor. Paula Barbaruolo on behalf of the Office of the United States Trustee.

THE COURT: Good morning. Counsel for R.T. Vanderbilt Holding Company?

MS. KANZER: Good morning, Your Honor. Lauren Kanzer, Vinson & Elkins, on behalf of the non-debtor, R.T. Vanderbilt Holding Company and the other non-debtor affiliates.

THE COURT: Good morning.

MR. LEVINE: Good morning, Judge. Paul Levine, local counsel for R.T. Vanderbilt Holdings and the aforementioned companies. Thank you.

THE COURT: Good morning. Counsel for Commodore?

MR. AGAY: Good morning, Your Honor. David Agay from McDonald Hopkins, on behalf of the Commodore entities.

THE COURT: Good morning. Counsel for Riverspan?

MS. DOYLE: Good morning, Your Honor. Lauren Doyle, Milbank LLP, on behalf of Riverspan Partners LP and VM Buyer LLC, as DIP lender and purchaser.

THE COURT: Good morning. Counsel for Twin City Fire? Counsel for the United --

MR. MAYER: Good morning, Your Honor. Josh Mayer from Ruggeri Parks Weinberg, for Twin City, Hartford Accident and Indemnity, and, I'm sorry, First State Insurance Company.

THE COURT: Good morning. Counsel for Pacific? Counsel for --

MR. COHN: Good morning, Your Honor.

THE COURT: Go ahead.

MR. COHN: Good morning, Your Honor. Jacob Cohn, Plevin & Turner, for Pacific and the Chubb insurers.

THE COURT: Good morning. Counsel for United Steel, Paper and Forestry Workers?

MR. STOLZ: Good morning, Your Honor. Matthew Stolz

of Cohen, Weiss and Simon LLP, on behalf of the United Steel Workers Union. I apologize for not being on video this morning. I'm on vacation this week and don't have appropriate court attire.

THE COURT: I appreciate the candor. Thank you, Counselor. Counsel for the PBGC?

MR. ROBERTSON: Good morning, Your Honor. Dan Robertson on behalf of the Pension Benefit Guarantee Corporation.

THE COURT: Good morning. Anyone else who would like to note their appearance? Okay, hearing none, I will turn it over to counsel for the Debtors, since these are Debtor's motions.

MS. POSIN: Good morning, Your Honor. Kim Posin of Latham & Watkins, proposed counsel for the Debtor. Your Honor, I would ask the Court where you want to start today. We do have the order shortening time. I thought I would start there and then we can go into the motions that were on the calendar.

THE COURT: Yes, that makes perfect sense, and the DIP and refinancing probably last.

MS. POSIN: Great. That's great, Your Honor. So with respect to the motion for order shortening time that relates to the hearing on the motion to stay the sale order that was filed by the Committee yesterday, I'm pleased to report to the Court that we have reached an agreement, subject

to the Court's approval and availability, between the Debtor and the Committee.

The terms of that agreement are as follows. Again subject to the Court's availability, the hearing on the stay motion would be set for next Thursday, July 28th, or Friday -- I'm sorry, May 28th or Friday, May 29th, if the Court is not available on Thursday. Any responses to the stay motion would be due on Tuesday by 11:59 p.m. Eastern. The Committee will not file a reply brief. The Committee and the Debtor agreed that the hearing will be argued remotely to conserve estate resources. Testimony given in connection with the settlement order stay motion will be incorporated into the record of the hearing on the sale order stay motion, such that no witnesses will need to appear in person again at the sale order stay motion hearing. And then finally, the Debtor will agree not to close the sale prior to May 29th.

And, Your Honor, I'm happy to answer any questions the Court has with respect to that agreement and also to discuss the Court's availability for the hearing.

THE COURT: No. Is the Committee in agreement with the plan?

MS. SIEGER-GRIMM: The Committee agrees with the terms, yes.

THE COURT: Thank you. Actually, that mirrored exactly where the Court was going, with the exception of the

reply and question of evidence. The Court is available Thursday, so I guess the question when you gave a timeframe, the Court needs to make sure it has sufficient time, obviously, to digest the response to that. So when did you have agreed --

MS. POSIN: 11 -- essentially midnight on Tuesday, Tuesday night.

THE COURT: So that gives the Court all day Wednesday to digest that. The Court is going to bump that up to Tuesday at 5:00 p.m., so the Court has a little bit of extra time in the evening, as well as Wednesday, and then -- to prepare, and then we will have oral argument at 10:00 a.m. on Thursday the 28th on that.

MS. POSIN: Very good. Thank you, Your Honor. So, with that, I will turn the podium --

THE COURT: Hold on one minute, Ms. Posin.

MS. POSIN: Oh, yes.

THE COURT: We'll issue a text order in that regard just so all the parties who may not be present today are aware of that, so we'll issue that this afternoon. And given that no evidence -- no witnesses will be here, the only thing that the Court would caution on the argument of that, if there's a particular part of the transcript or evidence, the evidentiary record in the prior, that you want the Court to consider in light of these time frames, the Court would strongly suggest that you make a note of that and outline that for the Court so

that the Court understands what specific testimony is relevant to your arguments for this stay pending appeal.

MS. POSIN: We will do that, Your Honor.

THE COURT: That's a lot of pages of transcript that the Court won't sort through, so.

MS. POSIN: Understood. With that, Your Honor, I'm happy to turn the podium over to my colleagues to argue, or to discuss with the Court, the uncontested motions.

THE COURT: Thank you.

MR. SULLIVAN: Your Honor, again for the record, Charles Sullivan, Bond, Schoeneck & King, for the Debtor. Your Honor, I'm prepared to present on the motions to extend time the period for removal, also to assume or reject leases, and to extend the time for exclusivity. If the Court is fine with it, I'll just follow the order on the calendar, if that's --

THE COURT: That's perfect. Thank you.

MR. SULLIVAN: All right, Your Honor. Your Honor, then I'll start with Docket Number 482, which is the motion to extend time to remove actions. Your Honor, this motion -- in this motion, the Debtor seeks to extend until August 16, 2026, the period within which it may seek to remove to the district court a number of actions which were pending against the Debtor as of the petition date, pursuant to 28 U.S.C. 1452 and Federal Rule of Bankruptcy Procedure 9027.

Your Honor, although the Debtor is not aware of any

actions that were commenced against it after the petition date, the Debtor also seeks to extend the time to remove any actions that may have been commenced post-petition. The relief sought in this motion is without prejudice to the Debtor seeking further extensions of the time period to remove and without prejudice to the Debtor's right to assert that the automatic stay would apply to any such action.

Your Honor, as of the timing of this motion, Federal Rule of Bankruptcy Procedure 9027 would generally provide 90 days from the petition date in this case for any action to which the automatic stay would apply for the Debtor to seek -- to file a notice of removal.

Rule 9006 permits the Court to extend that period of time for cause, so long as the request is made prior to the expiration of that period. This motion was filed on April 27, prior to the expiration, and out of an abundance of caution, the Debtor requested interim relief on the motion, which resulted in a bridge order being entered by this Court, at Docket 584, extending the removal deadline through today.

So, Your Honor, the Debtor respectfully submits that cause exists to extend the removal period. This case has only been pending before the Court for approximately 90 day.

Since the petition date, the Debtor and its professionals have been actively engaged in the administration of this complex Chapter 11 case and addressing a myriad of

contested issues, as the Court is well aware. The Debtor has not yet had an opportunity to evaluate whether it would remove actions, and as the Court has been apprised in prior hearings, there are more than 1,400 actions pending against it in other jurisdictions. So, the Debtor respectfully submits that it requires additional time to evaluate whether the removal of any action under 1452 is appropriate. And I note for the record, that no opposition to the motion has been filed. So unless the Court has questions, I would respectfully request an order extending the period of time to remove actions.

THE COURT: Thank you. The Court also notes, there is no objections and has reviewed the order and will grant the relief requested with the extension through August 16th, without prejudice to seek a further extension.

MR. SULLIVAN: Thank you, Your Honor. Your Honor, then, I'll move to the motion which appears at Docket 607, which is the motion to extend the time to assume or reject leases of non-residential real property.

Your Honor, in this motion the Debtor seeks to extend for a period of 90 days, the deadline for it to seek assumption or rejection of certain leases of non-residential real property that are listed in the motion. The current deadline to seek assumption or rejection of such leases is June 16.

In connection with today's hearings, we are only seeking a bridge order, which is giving very limited relief,

and that is extending that period of time from June 16 to June 17, to allow the Court to hear the motion on that date at a final hearing.

So, again, Your Honor, for clarity on the record, we're only seeking that bridge hour of a day -- bridge order of a day, to permits an additional period of time, under 365(d)(4). Your Honor, I'll note that there is no objection to the relief that has been filed and would respectfully request entry of the bridge order to get us to June 17.

THE COURT: Thank you, Mr. Sullivan. At the outset, the Court is going to give you the standard announcement for shorten time. The cause shown does not include a lack of attention to the Court's calendar for a day. There was a lot of extra expense and work for everyone in all of these orders shortening time, but recognizing there's a lot of moving parts, and Counsel also substituting, the Court granted the shorten time. So, that's kind of my standard announcement for 9006(c) shortened time to applications.

With that said, the Court has reviewed the motions. It's a very brief extension and the Court will grant that with the bridge order for June 17th and then we'll hear the merits of the motion on the 17th of June.

At this point, I don't think we have a regular calendar for Vanderbilt, so this will go at the 10 o'clock Chapter 11 calendars because the 2 o'clock slot is taken by

Northstar, so those are usually very active calendars, so presumably these will go through smoothly and can be on the regular 10 o'clock Chapter 11 calendar.

MR. SULLIVAN: Yes, runner. And, Your Honor, we understand the Court's instruction on the order shortening time, and I appreciate the Court's consideration of these motions under the circumstances.

Your Honor, with that, I'm going to go to the next motion, which is uncontested, Your Honor, which would be the motion to extend exclusivity, which appears at Docket 605. And, Your Honor, very similar circumstances with respect to the Debtor's request to extend exclusivity. We are requesting a bridge order on that motion, Your Honor, that would move us, just as with the last motion, from June 16 to June 17. Bear with me, Your Honor.

Your Honor, with respect of this motion, the Debtor does seek to extend the underlying motion. At the final hearing, we will request that an order be entered extending to October 14, the exclusive period to file a Chapter 11 plan and to December 13, the exclusive period to seek acceptances of that plan.

Your Honor, obviously this is the Debtor's first request and, respectfully, submit that there is and will be at the final hearing on this motion on June 17, of showing of adequate cause to extend exclusivity.

Your Honor, at this point in the case, we respectfully submit that it should be freely granted, and it's the most effective way to administer this case to permit exclusivity to remain with a Debtor at this point, Your Honor. So again, the Court is requesting a bridge order to allow this to be heard on a final basis on June 17, and there's no opposition to the motion.

THE COURT: Thank you, Mr. Sullivan. The Court has reviewed the motion and will grant the bridge order. I am being told, which I've forgotten which cases I'm doing the case management order, that we actually do have a 3 o'clock time slot, so the last one in this will be held on June 17th at 3 o'clock. Hopefully we can get through the Northstar matters from 2 to 3 and start right at 3 o'clock for that.

MR. SULLIVAN: Yes, Your Honor. Thank you.

THE COURT: So, I apologize, so for the record, the prior motion, as well, at Docket Number 607, the extension of time to assume or reject non-residential real property leases, will be to June 17th at 3 o'clock, as well.

MR. SULLIVAN: Thank you, Your Honor.

MS. MARKS: Good morning coming on. Betsy Marks from Lathan & Watkins, proposed co-counsel for the Debtor. I will be presenting on the Debtor's motion for entry of stipulated orders, granting limited relief from the automatic stay for certain insurance related payments, at Docket 623.

Today, the Debtor is seeking entry of two different orders to lift the automatic stay to permit the Debtors insurance carriers to make certain payments as described in our motion. We've discussed this motion with both the UCC and the US Trustee, and neither of them object objects. All the relevant insurers have stipulated to their respective proposed orders.

At the time of the filing of our motion, we did not yet have the consent of the London Insurers for the order related to indemnification payments for the Debtor, but I'm pleased to report that we did receive their consent yesterday and we filed that stipulated proposed order at Docket 658.

Given that the matter is fully uncontested, I'll make my argument brief, but I'm happy to answer any questions, the court may have. The first request for relief relates to a pre-petition talc litigation against the Debtor in Connecticut state court, titled Marone V Vanderbilt minerals. In that case, there was a jury verdict awarded against the Debtor, which the Debtor is now appearing peeling.

The Debtor and its liability insurance carriers have posted bonds as pre-judgment remedy, pending the appeal, and in Connecticut, posting a bond as a pre-judgment remedy prevents a plane from freezing or attaching the Debtor's assets. The Debtors and its insurers, posted 15 million in bonds last May 2025. They are now renewal payments coming due this May. The

renewal payments from the four relevant carriers total approximately $112,000.

Once the carriers make the payments, the proceeds available under the Debtor's liability insurance policies will be depleted by that amount, and to the extent that insurance proceeds are considered estate assets, the carriers were not comfortable making those payments, unless the automatic stay is lifted.

Our stipulated proposed order would lift the automatic stay, solely for the purpose of the carriers paying these renewal fee fees, and any further renewal fees that would come due so the bonds do not lapse. We believe it's in the best interest of the estate to lift the stay to make those renewal payments for the bonds.

The second request for relief relates to outstanding reimbursement requests for indemnity and defense costs that the Debtor has already incurred and paid in connection with defending a number of pre-petition personal injury lawsuits. Certain of the Debtor's London-based insurance carriers are obligated to reimburse the Debtor for their defense and indemnity requests. Two reimbursement requests from the Debtor were made earlier in 2026. They are outstanding and they total approximately $300,000. Because those payments would also deplete the proceeds available under the insurance, the London carriers also were not comfortable making the reimbursements

until the automatic stay is lifted.

The indemnification payments will not reduce estate assets. The Debtor is already out of pocket approximately $300,000, so the reimbursement from the London carriers will simply shift the assets to the Debtor, and we believe it's in the Debtor's and the estate's best interest to have that cash now in its bank accounts.

I'm happy to answer any questions the Court may have, and if there are none, we respectfully request that the proposed orders be entered there at Docket 623-1 and 658-1. Thank you.

THE COURT: Thank you, Ms. Marks. The Court does not have any questions on that, and I did not see any objection to that relief either. Counsel for London is here and has stipulated to the relief requested?

MR. REINHARDT: Yeah, I -- Nate Reinhardt on behalf of London Market Insurers. I agree with everything that was said. You know, we asked for the stay relief and we appreciate the Debtor's efforts in seeking the relief today, as well as working with us on the stipulated order, so we would just reserve rights if the form of the stipulated order was not entered, but you know I'll leave that for you.

THE COURT: Thank you. So, the Court will grant the relief at Docket Number 623 in accordance with the stipulated orders and would ask that you upload those to the Court's ECF.

UNIDENTIFIED ATTORNEY: Thank you.

THE COURT: Thank you.

MS. POSIN: Again, Your Honor, for the record, Kim Posin of Latham & Watkins, proposed co-counsel for the Debtor. Your Honor, I think the last motion on the docket today is the DIP motion, which is for a final DIP order.

THE COURT: Yes.

MS. POSIN: As the Court will likely recall, in the early hours of May 7, the Debtor filed a motion seeking Court approval of a replacement DIP facility with VM Buyer LLC as the new DIP lender and the winning bidder at the Debtor's May 4th auction. That motion is at Docket 554. In the afternoon on May 7th, the Court held a hearing on the DIP motion and ultimately entered an interim DIP order on May 8th. That's at Docket 577 and that order set a final hearing for today, May 21.

Pursuant to the proposed final DIP order that was previewed with the prior DIP lender, the replacement DIP lender, the Committee, and the U.S. Trustee, in advance, and was filed on May 20, that's at Docket Number 655, the Debtor seeks to borrow up to $20 million under the replacement facility.

There were two objections to the final DIP order that were filed yesterday. The Committee's objection focuses on a couple of things. One is the designation of the DIP agent and

the lender as third-party beneficiaries of the settlement agreement and the ability of the DIP lender to exercise a call-right in relation to that status, any inclusion in the DIP credit agreement of an event of default if the Debtor loses exclusivity. In addition, the Committee proposes that language be added to the DIP order that we believe would impair the Debtor's rights with respect to the pending settlement order appeal.

So first, with respect to the call right, the Committee concedes in its objection that the Committee does not believe that any action taken in connection with the Riverspan DIP would moot the Committee's appeals. That's in their objection at Paragraph 9. But nevertheless, they ask the Court to delete the call-right provision in the credit agreement, which permits the DIP lender to require the intercompany settlement counterparties, as a defined term, to contribute, convey, assign, transfer, and deliver, to the borrower, the intercompany settlement assets in accordance with the terms thereof and subject to the occurrence of the intercompany settlement order, which of course has already been approved by the Court.

This provision has been negotiated and required by the prior DIP lender to ensure that the DIP lender could include the settlement assets in its collateral pool once those assets are ultimately transferred to the Debtor, and is now

being required by the replacement DIP lender for the same reasons.

The Debtor believes the call-right provision is appropriate because it was negotiated by both DIP lenders and was required by each of them in order to provide the DIP financing that the Debtor requires, and the Debtor understands in a foreclosure scenario, a Debtor's standalone assets may not be sufficient on their own to cover the DIP financing that has been provided by the DIP lender.

To the extent the Committee thinks, if exercised, the call-right could potentially support an equitable mootness argument with respect to its appeals of this Court's sale order and settlement order, that issue is not relevant to the entry of the final DIP order. It will be up to an Appellate Court to determine at the appropriate time whether the sale order appeal and/or the settlement order appeal are moot.

And the Committee concedes again at Paragraph 12 of the objection that it believes that neither of these appeals could be mooted by the Riverspan DIP or exercise of any rights in connection with the DIP credit agreement, because relief would still be available to the claimants whose rights are on appeal, notwithstanding the exercise of any rights under the call-back provision.

Nevertheless, Your Honor, the Committee requests the following language be added to the final DIP order.

Notwithstanding anything herein to the contrary, nothing in this order or in the implementation of any rights or transactions regarding any assets subject to the settlement order that are contemplated hereby shall in any way prejudice, impair, or derogate, the Committee's appeal of the settlement order and/or any rights relating thereto.

The language may sound familiar to the Court because it's nearly identical to the language the Committee requested to be included in the sale order at the hearing on May 7th, which was as follows. Notwithstanding anything herein to the contrary, nothing in this order or the implementation of the transactions contemplated hereby shall in any way prejudice, impair, or derogate, the Committee's appeal of the settlement order and/or any rights relating thereto.

Your Honor may recall that following objections to that language with respect to the sale order by the Debtor and other interested parties, no additional language was added ultimately to the sale order. The Debtor has the same objections to the inclusion of the nearly identical language in the final DIP order as it did with a sale order.

First, the requested language is not mutual and is decidedly one-sided. It attempts to preserve the rights of the Committee with respect to the settlement appeal without reserving the rights of the Debtor or any other party with respect to those appeals. In fact, it seeks to specifically

compromise the rights of the Debtor and other parties in relation to the settlement order appeal without any basis for doing so.

Second, any Appellate Court would not be bound in its actions in a settlement order appeal based on language that are included in a final DIP order, rendering the requested language akin to an improper advisory opinion.

And third, and perhaps most importantly, the language is purposely broad and it is unclear specifically what rights of the Committee are intended to be preserved and what rights of the Debtor and other parties are intended to be foreclosed or compromised.

So with respect to the -- that's all I have with respect to that argument. With respect to the Committee's final argument that the event of default with respect to exclusivity should be excised from the DIP credit agreement, the Debtor agrees with that excision for several reasons.

First, it's a fairly standard event of default provision in a DIP facility, and it is there to ensure that if another party is permitted to file a plan that the DIP lender objects to for any reason, it would not be required to continue funding the DIP.

Second, the provision was also included in the prior DIP lender's credit agreement, and it has been approved in several prior interim DIP orders.

And finally, the Committee argues that this provision undermines the Debtor's ability to control the first 120 days of the case, but subject to the bridge order that Mr. Sullivan presented earlier today, the Debtor's exclusivity currently expires on June 17th, subject to our pending motion.

To date, no party has objected to the Debtor's motion. Obviously, the objection deadline hasn't run yet, but we don't have any objections yet, and nobody has filed a motion seeking to terminate the Debtor's exclusivity prior to June 17th. And, because the Committee has argued that the Debtor should be able to control the case for at least the first 120 days, we wouldn't expect the Committee to file any such motion to terminate exclusivity during that timeframe, and if exclusivity is not terminated, then there can be no event of default. So for all those reasons, Your Honor, we would ask the Court to overrule the Committee's objections to the final DIP order.

The second objection was filed by the stalking-horse bidder and current backup bidder, Commodore Materials, LLC. In its objection, Commodore argues that the termination fee, due to it under the stalking-horse APA, should be paid now and that payment should be required by the final DIP order.

While the Debtor disagrees with this assertion and reserves all rights, Commodore and the Debtor have agreed to include language in the final DIP order that resolves

Commodore's objection, in which we believe the current DIP lender supports.

The addition is found at new Paragraph 93 of the final DIP order. I believe we have redlines, if the Court would like to see the revision, or I can read it into the record, whichever the Court prefers.

THE COURT: Why don't we do both.

MS. POSIN: Okay. May I approach, Your Honor?

THE COURT: You may. Thank you.

MS. POSIN: The new provision can be found on the very last page. While the Court is reviewing it, I will read it. It's a little bit lengthy, but I will read it into the record. It provides, the Debtor shall escrow from the proceeds of the DIP loans, exclusively for the payment of the termination payment, as a defined term, if and solely to the extent the termination payment is deemed payable in advance of the close of the 363 sale transaction, $1,500,000 when the Debtor makes a subsequent draw on the DIP facility, and $1,500,000 on or before July 8, 2026, provided that the $3,000,000 escrowed for the termination payment shall only be payable to the existing DIP lender if the Court determines by final order that the termination payment is payable from a source other than the proceeds of the 363 sale transaction upon consummation of the 363 sale transaction.

Further, the escrow funds shall not be released to

the existing DIP lender until the Court has determined by final order that the termination payment came due and is payable, even if no alternative sale is consummated. If the Court determines by final order that the termination payment is not due and payable, other than from the proceeds of the 363 sale transaction, the escrowed funds shall immediately be released to the estate and constitute DIP collateral in all respects and otherwise be subject to the terms of the DIP facility and the DIP orders. With this addition, Your Honor, we understand that the Commodore DIP objection is fully resolved.

Furthermore, just for the record, nothing in the revised final DIP order should be deemed to be an admission that the termination payment is in fact due and payable from anything other than the proceeds of an alternative sale transaction when that sale is ultimately consummated, and the Debtor and the replacement DIP lender expressly reserve all rights to seek a determination that the termination payment is not due and payable in any other scenario. And likewise, of course, all rights of Commodore are fully preserved with respect to all of those issues.

THE COURT: Thank you.

MS. POSIN: With that, Your Honor, unless the Court has any questions for the Debtor, the Debtor requests that the Court overrule the objections and enter the final DIP order with the aforementioned provisions.

THE COURT: Thank you, Ms. Posin. The Court does have a question. Did you have an expected procedure, or just kind of kicking that can down the road for a final order regarding the termination payment?

MS. POSIN: So the hope is that the sale closes --

THE COURT: Right.

MS. POSIN: -- and we don't have to come back before the Court. If that doesn't happen, or doesn't happen within the preferred timeframe of all the parties, my expectation is either Commodore or the Debtor would bring a motion to this Court to resolve the issue of whether that termination payment is due prior to the closing of the sale.

THE COURT: Okay. So for purposes of the Court and the Clerk's Office, the initial DIP at 17 and then 554, those would presumably be resolved today? There's no reason to carry those for a different day? That would be a different procedural mechanism in the event that we ever get there regarding the termination?

MS. POSIN: That's correct, Your Honor.

THE COURT: Okay. Thank you. Mr. Agay, did you want to weigh in on that?

MR. AGAY: No, Your Honor. I would just confirm everything that Ms. Posin said. We thank the Debtor for working with us on this, and likewise, obviously as Ms. Posin said, we reserve all rights as to the arguments. I'm not quite

sure that the objection is overruled versus resolved, but you know I'll let Your Honor deal with that disposition.

THE COURT: Thank you. Was there anyone else who wished to weigh in before we hear argument from the Committee? Hang on just a moment for those by video. I'm being -- we'll circle -- I have just some housekeeping things at the end that I just need to make sure that we are resolved on that. So, why don't we hear from the Committee with respect to the DIP arguments?

UNIDENTIFIED ATTORNEY: Mr. Davis is going to address that.

THE COURT: Thank you, Mr. Davis.

MR. DAVIS: Good morning, Your Honor. Kevin Davis of Caplan & Drysdale for the Committee. I'm sorry I couldn't be there in person for you today and I appreciate being able to join you virtually.

As Ms. Posin said, much like the objections that you heard two weeks ago with regards to the sale order, the Committee's concern here with the DIP order is largely focused on its desire to protect its appeal of the settlement order from arguments here of particularly equitable mootness.

As explained in our papers, we believe that attempts to moot out the appeal based on the sale or the DIP order would ultimately fail, but they nonetheless constitute a risk against which the Committee wishes to mitigate, and this objection is

part of that mitigation.

Absent the risk of mootness, the Committee would likely not be raising the objection at this juncture, and the Committee requested through the Debtor, as Ms. Posin stated, language similar to that which was proposed for the sale order that would have, in the Committee's view, provided some comfort regarding the risk of mootness. As with the language with the sale order, we have not received agreement from the other parties to include that language in the order, not casting any aspersions on them whatsoever, just noting that that is the state of play, much like it was two weeks ago. Accordingly, the Committee raises its objection to Section 10.23 of the DIP credit agreement and its implementation through the final DIP order.

I will note that previously, when the Debtor sought a final DIP order on the prior DIP for with Commodore, the Committee did object and put forth a markup set of DIP documents which excised Section 10.23, and after that hearing on that final DIP order, the Court said it was willing to grant the final DIP order as marked up by the Committee. That was at the March 19th hearing, and the Court's comments are at Page 13, Lines 11 through 12 of the transcript.

The Debtors, rather than modify the order to have it on a final basis with the Committee's markup, decided to move forward with a series of interim DIP orders and have continued

to do so even now with Riverspan as the DIP.

And so we would note, and this is also germane to the exclusivity objection which I'll raise in a minute, while the Debtors has been successful -- the Debtor has been successful in, you know, getting these provisions through on interim bases, the only time that they have actually sought to put these provisions in on a final basis, the Court has rejected that, or at least taken the Committee's position as to what the DIP order should contain.

Previously, this Section 10.23 of the DIP credit agreement, the call-right provision that we've been discussing, was problematic because it purported to grant the DIP lender rights in an agreement that had not yet been approved and that the Committee believed was not appropriate, and obviously still does, based on its appeal. You know, 10.23 gives a DIP lender status as a third-party beneficiary to the settlement agreement and certain rights that the Debtor has insofar as the DIP is in default, including providing collateral rights in the assets that would be transferred as part of the settlement order.

Now that the settlement agreement has been approved and is on appeal, this provision raises a slightly different concern for the Committee. The first is that the call-right, to the extent that it is utilized, essentially allows the DIP lender to get the benefit of the sale on a DIP default, and so for the same reasons that the Committee has concerns about the

sale potentially raising arguments of equitable mootness, if ultimately it closes, the Committee has the same concerns about the call-right being enforced here and providing the same basis.

Here, obviously we don't have the issue of a 363 transfer, so it is not a -- the statutory mootness is not, we don't believe, is at issue here, but equitable mootness, nonetheless, would appear to be an argument that the parties are willing to raise.

I would note that, you know, equitable mootness is an argument that can be waived. The language that the Committee was seeking to put into the order was essentially a request for the other parties to waive that. They've decided not to, and so we believe that this risk still exists.

The second issue, and this was not explicit in our papers, but by vesting Riverspan with rights under the settlement agreement and in the order as a third-party beneficiary, and investing them with rights of the Debtor under the settlement agreement that are triggered under a DIP default, that has the impact, potential impact, of modifying the settlement agreement and settlement order while it is on appeal.

Essentially, the call-right provides an alternative trigger for a party to invoke rights under the settlement agreement. It's a general rule that once a notice of appeal

has been filed, the lower court is divested of jurisdiction to modify or otherwise -- to modify the order on appeal or otherwise make decisions that may undermine the appeal, interfere with the Appellate Court's jurisdiction, or potentially circumvent the appeal process.

Here, we believe that Section 10.23 disturbs the Court's decision on the settlement order and agreement by essentially changing the terms of it, and we think that that's problematic under that line of divestiture cases, the seminal one of course being the Supreme Court's decision in Griggs v. Provident Consumer Discount Company at 459 U.S. 56, pin cite 58, that's 1982, a case that remains good law and has been cited by the Second Circuit as recently as this year.

So, with all of that said, we believe that 10.23 continues to be problematic and should be excised from any final DIP order here.

Moving onto the issue of exclusivity, I think that Ms. Posin may have stated that our objection was concerned with impairing the Debtor's control over the case for the first 120 days. The Committee is not concerned about the loss of exclusivity being in default as interfering with the Debtor's control of the case, but rather interfering with the Code's limitation on the Debtor's control of the case to the first 120 days of the case.

The concern here is that this would chill the

Committee or other parties from moving to terminate exclusivity or from requesting that exclusivity not be extended because, if successful, it would trigger a default. And as set forth in our papers, this really upsets the relative balance of negotiating strength between the Debtors and the creditors that the Code was intended to receive.

The Code limits exclusivity. It provides bases for other parties to seek to terminate it, as well as to have it not be extended, and by including the loss of exclusivity as a trigger of default, that balance is upset here.

This may be, you know -- as Ms. Posin said, this may be a standard provision. I don't know that this is a standard case. But regardless of whether it's a standard provision, it does, we believe, interfere with the state of play in this case in a way that prejudices the Committee and its constituency.

Also, Ms. Posin stated that the Court has previously approved this trigger of default on an interim basis. That is true. But again, when the Committee submitted its markup, and that was, I failed to mention before, I believe that was at Docket 191, the -- that provision -- or, excuse me, that event of default was excised, and it is that Committee markup that the Court embraced on a final basis.

So with that, Your Honor, unless you have any questions, again, the Committee believes that the final DIP order certainly can be approved with these modifications, but

objects to Section 10.23 of the credit agreement and all cite at Section 8.01 in remnant 3, which includes the loss of exclusivity as an event of default.

THE COURT: Thank you, Mr. Davis. Mr. Davis, how do you respond that any Court ruling regarding equitable mootness is an impermissible advisory opinion, that really lies with the District Court?

MR. DAVIS: I don't believe that it's an impermissible advisory opinion, Your Honor, because we're not asking the Court to make a ruling that this will -- or that the appeal is or is not equitably moot. We are asking the Court to, one, modify this order so as to cabin against the risk of arguments of equitable mootness, so as not to prejudice the Committee. And second, we're asking the Court, you know, with the language that we asked to have included, to essentially reflect what the Court believes this order does or is intended to do. That does not control the Appellate Court, and it's not an advisory opinion about what a Court should find in the future, but simply what effect this Court believes this order would have on the status quo.

THE COURT: Thank you. Ms. Posin, did you want to respond?

MS. POSIN: Again, Kim Posin of Latham & Watkins, proposed counsel for the Debtor. Your Honor, I don't have much to add. I think I covered most of it in my argument already.

I wasn't counsel of record, or proposed counsel of record, at the time of the Court's comments that Mr. Davis has commented on.

But my understanding, and of course the Court will know what was in the Court's head at the time, is that that was an order that was proposed by the Committee that the Court said the Court would entertain entering, not that it was the only order that the Court would entertain entering. And, so I just want to be clear that. I didn't understand it to be, this is the only order that the Court would consider, so I just wanted to raise that for the Court. Unless the Court has any other questions for me, I'm happy to --

THE COURT: Well, the argument that Mr. Davis raised that was not in the papers in terms of the jurisdiction, that this would be an impermissible -- that the call-right somehow impacts the settlement appeal, that the Court doesn't have jurisdiction or an ability to do that, obviously that was not in the papers, so that is the first time that that's being raised in this context, but what would be the Debtor's response to that?

MS. POSIN: Is it a question whether this is -- well, so the call-right has been in the prior DIP credit agreement with the prior DIP lender. It is obviously in the replacement DIP credit agreement. It has been approved by the Court on an interim basis for the last couple of months, and it has always

been the right, an existing right. They can call right now. Right? There's nothing preventing them from exercising that call-right under the terms of the credit agreement, and so it's not changing anything. In fact, it is the status quo to allow them to continue to have that call-right. So I don't really see it as changing anything. That's been what has been permissible for months now at this point.

THE COURT: Thank you. Those were the only written objections. Was there anyone else who wished to weigh in on the DIP motion?

MS. DOYLE: Your Honor, Lauren Doyle on behalf of Riverspan Partners LP and VM Buyer LLC as DIP lender. I just wanted to reiterate Ms. Posin's point regarding preserving the status quo and the call protection.

It's our view that it does nothing more than what Your Honor has already done with respect to the sale order. It enforces rights that exist as they exist in the settlement order, and therefore is not changing any of the Court's prior rulings or otherwise impacting the appeal. To the extent the appeal is stayed, or with respect to the settlement order is stayed or otherwise, these provisions are otherwise as enforceable or unenforceable in connection therewith as to what happens with the settlement order. So, it doesn't actually change or in any way moot their appeal. If it's not stayed and the parties move forward, it continues to move forward just as

the settlement order and the settlement agreement provide.

With respect to the exclusivity termination right, I note that the Committee argues that it impacts the balance of power as between the Debtor and the Committee and chills the Committee's ability to move for cause to terminate exclusivity.

I would note again that that is a standard of for cause, and there is a reason that there is that standard, and there is a reason why these provisions are in DIP orders, which is that if the Debtor is unable to show for cause that the exclusivity should continue beyond the 120-day period, or the Committee is able to show that there is cause to terminate exclusivity, the case has obviously gone in a very different direction than the one in which the DIP lender has signed up for, and therefore that is why it is included as a termination right in almost every single DIP that is proposed, because that balance of power shift is an important one to the case. It changes the trajectory. It changes the potential resolution of the case. It could impact the sale process, and that's why it's an appropriate event of default under almost every DIP order. That's all I had to add, Your Honor.

THE COURT: Thank you. And is the Debtor currently not in default? There's no existing event of default or notification from Riverspan? I know that there were some with respect to Commodore that were floating out there. Is that correct?

MS. POSIN: That is certainly the Debtor's understanding. We do not have any sort of notice of default from our replacement DIP lender.

THE COURT: Thank you. Is there anyone else that wishes to be heard?

MS. BARBARUOLO: Yes, thank you, Your Honor. Paula Barbaruolo from the United States Trustee. The U.S. Trustee doesn't take any position with respect to the arguments that both parties have made today. However, and I do note in the redline copy of the order that the U.S. Trustee fees are in fact carved out, and as long as they are carved out and they are not subject to any limitation between one of the parties, the U.S. Trustee has no objection and certainly would reserve any rights it has thereunder.

THE COURT: Thank you. Is there anyone else?

MS. BARBARUOLO: Thank you.

THE COURT: Hearing none, the Court is going to take a 15-minute break. It is 10:51. Let's resume at 11:05 and the Court will issue its ruling.

THE CLERK: All rise. Court is adjourned until 11:05.

(Recess)

THE COURT: All rise. You may be seated. Continuing with the 10:00 a.m. calendar.

THE COURT: Thank you, Counselors. The Court has previously entered interim DIP orders and reviewed the pending

objections by the Committee and Commodore. With Commodore, the Court considers the addition of Section 9.3 as a result of that objection, and I thank the parties for their work in that regard.

Regarding the UCC's objection, the Court does not find it appropriate to address equitable mootness in a DIP order, as it is akin to an impermissible advisory opinion, and therefore that aspect of the objection is overruled.

Secondly, the call-right has existed throughout the DIP lending process in this case, and authorizing its inclusion in a final DIP order as the attached DIP agreement maintains the status quo. While the Court, on March 19th, looked at the Committee order favorably at Docket 191-1 and made several findings that the UCC requested, for example excluding avoidance actions and insurance policies as collateral, the Court did not approve the removal of the call-right at that time and understands it's critical to advance the full amount of the DIP loan at this juncture.

Finally, the Court will allow the loss of exclusivity to remain as an event of default, as that is standard and appropriate in this case.

In light of those findings, the Court is overruling the Committee's objection regarding the final DIP loan and will look to the Debtor for an order in conjunction, obviously, with Riverspan, and will grant the motion as requested.

UNIDENTIFIED ATTORNEY: Thank you, Your Honor.

THE COURT: Thank you. Is there anything further today?

UNIDENTIFIED ATTORNEY: No, Your Honor.

THE COURT: For purposes of calendaring, I believe I need to close the Section 105(a) conference on the scheduling of the stay pending appeal of the sale motion, so the Court for scheduling will mark that off, and then we'll issue the text order pursuant to our discussion at the beginning of the calendar with the various deadlines discussed, and we'll be back here next Thursday. We won't be back here, we'll be back on video next Thursday. Is there anything else that the Court needs to be aware of that's coming down the pike or in the works or any other emergencies or expectations?

MS. POSIN: Your Honor, since you ask, again, Kim Posin for the Debtor. Mr. Sullivan, I believe maybe three weeks or so ago, mentioned to the Court a potential motion with respect to some talc product that remains on site at a couple of the Debtor's facilities, some of which are being part of the sale, and the intention is to move that talc to save some of it and to move it to a different location. So, we are working on the logistics of that.

We are trying to do that not by a shortened-time basis, on an emergency basis, but we are required under the APA to have that order in hand before we close, so we're trying to

figure out the logistics of that disposal with the Committee and will bring that to the Court as soon as we can. Hopefully not on an emergency basis if we can swing it, but if we have to, we will certainly let the Court know. Thank you, Your Honor.

THE COURT: Okay. Thank you. Anything further from the Committee?

UNIDENTIFIED ATTORNEY: No, Your Honor. Thank you.

THE COURT: Anything further from anyone by video?

UNIDENTIFIED ATTORNEY: No, thank you.

THE COURT: Okay. So we will see the parties by video next Thursday and will look for you to upload all of those various orders as granted by the Court today. Thank you all.

THE CLERK: All rise. Court is adjourned.

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

I, WENDY ANTOSIEWICZ, court approved transcribers, 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 our ability.

/s/ Wendy Antosiewicz

WENDY ANTOSIEWICZ

J&J COURT TRANSCRIBERS, INC. DATE: May 27, 2026