

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
<input type="checkbox"/> <i>Individual appearing without attorney</i> <input type="checkbox"/> <i>Attorney for:</i>	

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - _____ DIVISION

In re:	CASE NO.: CHAPTER: 11
	NOTICE OF MOTION AND MOTION IN INDIVIDUAL CHAPTER 11 CASE FOR ORDER AUTHORIZING DEBTOR IN POSSESSION TO EMPLOY GENERAL BANKRUPTCY COUNSEL [11 U.S.C. § 327(a), LBR 2014-1]; and <input type="checkbox"/> TO FILE INTERIM FEE APPLICATIONS USING PROCEDURE IN LBR 9013-1(o)
	This motion is being made under <u>ONLY ONE</u> of the following notice procedures: <input type="checkbox"/> No hearing unless requested under LBR 9013-1(o)(4); or <input type="checkbox"/> Hearing set on regular notice: LBR 9013-1(d): DATE: TIME: COURTROOM: ADDRESS: <div style="text-align: right;">Debtor(s).</div>

PLEASE TAKE NOTICE THAT the Debtor in Possession (the Debtor) requests an order authorizing the Debtor to employ general bankruptcy counsel and, if requested in this motion, to file interim fee applications using the procedures set forth in LBR 9013-1(o).

Your rights might be affected by this Motion. You may want to consult an attorney. Refer to the box checked below for the deadline to file and serve a written response. If you fail to timely file and serve a written response, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief. You must serve a copy of

your opposition upon the Debtor, the Debtor's attorney, the United States trustee and on the judge pursuant to LBR 5005-2(d) and the Court Manual.

- a. **No Hearing Scheduled; Notice Provided Under LBR 9013-1(o):** This Motion is filed by the Debtor pursuant to LBR 9013-1(o), which provides for granting of motions without a hearing. The full Motion is attached, including the legal and factual grounds upon which the Motion is made. If you wish to oppose this Motion, you must file a written response and request for hearing with the court and serve it as stated above, **no later than 14 days after the date stated on the Proof of Service of this Motion** plus 3 additional days if you were served by mail, electronically, or pursuant to F.R.Civ.P. 5(b)(2)(D), (E), or (F). Your opposition must comply with LBR 9013-1(f) and (o).

- b. **Hearing Set on Regular Notice; Notice Provided Under LBR 9013-1(d):** This Motion is set for hearing on regular notice pursuant to LBR 9013-1(d). The full Motion and supporting documentation are attached, including the legal and factual grounds upon which the Motion is made. If you wish to oppose this Motion, you must file a written response with the court and serve it as stated above **no later than 14 days prior to the hearing**. Your response must comply with LBR 9013-1(f). The undersigned hereby verifies that the hearing date and time selected were available for this type of Motion according to the judge's self-calendaring procedures [LBR 9013-1(b)].

- c. **Other** (*specify*):

Date: _____

By: _____
Signature of Debtor

Name: _____
Printed name of Debtor

Date: _____

By: _____
Signature of attorney for Debtor, if any

Name: _____
Printed name of attorney for Debtor, if any

MOTION TO EMPLOY GENERAL BANKRUPTCY COUNSEL [LBR 2014-1] AND, IF REQUESTED BELOW, TO FILE INTERIM FEE APPLICATIONS USING PROCEDURE IN LBR 9013-1(o)

1. EMPLOYMENT

- a. To assist the Debtor in the administration of this chapter 11 case, the Debtor must employ, effective on (date) _____, the following professional _____ (Professional) as chapter 11 general bankruptcy counsel pursuant to 11 U.S.C. § 327(a).
- b. The following information and documents are provided in support of this Motion:
- (1) The Professional seeks compensation pursuant to: 11 U.S.C. § 328; or 11 U.S.C. § 330.
- (2) The Debtor selected this Professional because the Professional is well qualified to represent the Debtor in this proceeding and for the following additional reasons:
- (3) Professional agrees to render legal services in connection with the Debtor's chapter 11 case, including but not limited to the following services:
- (A) Advise the Debtor regarding matters of bankruptcy law and concerning the requirements of the Bankruptcy Code, and Bankruptcy Rules relating to the administration of this case, and the operation of the Debtor's estate as a debtor in possession;
- (B) Represent the Debtor in proceedings and hearings in the court involving matters of bankruptcy law;
- (C) Assistance in compliance with the requirements of the Office of the United States trustee;
- (D) Provide the Debtor legal advice and assistance with respect to the Debtor's powers and duties in the continued operation of the Debtor's business and management of property of the estate;
- (E) Assist the Debtor in the administration of the estate's assets and liabilities;
- (F) Prepare necessary applications, answers, motions, orders, reports and/or other legal documents on behalf of the Debtor;
- (G) Assist in the collection of all accounts receivable and other claims that the Debtor may have and resolve claims against the Debtor's estate;
- (H) Provide advice, as counsel, concerning the claims of secured and unsecured creditors, prosecution and/or defense of all actions;
- (I) Prepare, negotiate, prosecute and attain confirmation of a plan of reorganization;
- (J) Other (*specify*):
- (4) A declaration by the Professional provides information on the following: identification/qualifications; disinterestedness; compliance with FRBP 2014 and FRBP 5002; and compensation arrangements.
- (5) A declaration by the Debtor as to the source, amount and date of prepetition retainer paid to Professional and provisions for replenishment, if any, and any postpetition retainer and source of payment of postpetition retainer(s), if any. No liens against the retainer have been granted in favor of the Professional or any other party.
- (6) An optional Memorandum of Points and Authorities is attached.
- (7) Other (*specify*):

2. FILE INTERIM FEE APPLICATIONS USING LBR 9013-1(o) (IF REQUESTED)

- The Debtor requests authorization to use the procedures set forth in LBR 9013-1(o) regarding Notice of Opportunity to Request Hearing when requesting approval of interim fee applications. Professional acknowledges, by checking this box, that to the best of Professional's knowledge, no other professional is or will be employed in this case. If additional professional(s) become employed, Professional agrees to give 45 days' notice of the date and time of any interim fee application hearing in compliance with LBR 2016-1(a)(2) and will cease filing interim fee applications pursuant to LBR 9013-1(o).

The Debtor requests the authority to (1) employ the Professional to represent the Debtor in this case and (2) file interim fee applications using the procedure set forth in LBR 9013-1(o).

Date: _____

By: _____
Signature of attorney for Debtor, if any

Name: _____
Printed name of attorney for Debtor, if any

Date: _____

By: _____
Signature of Debtor

Name: _____
Printed name of Debtor

DECLARATION OF PROFESSIONAL

I, (*print name*) _____, have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto.

1. Identification/Qualifications

- a. I am a licensed attorney.
- b. I, and the (*name of firm*) _____ (Firm) of which I am a (*position with Firm*) _____, maintain our principal offices at _____
- c. I believe that I am qualified to represent the Debtor. A copy of my resume is attached as **Exhibit 1**.
- (1) I have previously represented at least ___ chapter 11 debtors and in ___ of those cases, I prepared a chapter 11 plan and obtained an order confirming the plan.
- (2) I cannot check box 1.c.(1) but I believe that I should be allowed to represent this Debtor because (*specify*): _____
- d. Additional resumes for any and all professionals at my Firm who will work on this case are attached as **Exhibit 2**.

2. Disclosures Re Connections and Adverse Interests

- a. Authority is sought pursuant to 11 U.S.C § 327(a)

The Firm and I are "disinterested persons" within the meaning of 11 U.S.C. § 101. We are (a) not creditors, equity security holders, or insiders of the Debtor; (b) are not and were not, within 2 years before the date of the filing of the petition, directors, officers or employees of the Debtor; and (c) do not have interests materially adverse to the interest of the estate, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor or for any other reason. The Firm and I do not hold or represent an interest adverse to the estate.

- b. Disclosures re FRBP 2014

Except as indicated below and other than representing the Debtor in this case, neither the Firm nor I ever represented the Debtor, and neither the Firm nor I have any connection with the Debtor, any insider of the Debtor, or insider of an insider of the Debtor, any creditor of the Debtor or any other party in interest herein, the United States trustee, persons employed by the United States trustee, persons employed by the Bankruptcy Court or a Bankruptcy Judge, or any of their respective attorneys or accountants. Other information relevant to relationships with the Debtor is as follows (*specify*): _____

- c. The Firm and I do not hold any prepetition claim against the estate.
- d. The Firm and I have not made any arrangements for the sharing of fees with any other person or entity.

3. Compensation Arrangements

a. (1) Prior to the chapter 11 petition date, the Firm and I received \$_____ from

the Debtor

other (specify source of funds): _____

As of the petition date, \$_____ of the retainer funds remain unexhausted.

(2) Firm and I will receive \$_____ from

the Debtor

other (specify source of funds): _____
postpetition on (specify date or timing of payment): _____

b. Pursuant to the Debtor's initial retainer agreement, the Debtor agreed to pay for services as they were performed. However, any payment of fees and expenses is subject to court approval. A true and correct copy of the retainer agreement is attached as **Exhibit 3**.

c. The Firm and I will comply with the *Guide To Application For Retainers and Professional And Insider Compensation* promulgated by the Office of the United States trustee, as well as any other applicable employment guidelines and fee guidelines in withdrawing the prepetition or postpetition retainer funds, if any.

d. THE FIRM'S PROPOSED COMPENSATION IS:

(1) Hourly rates

Partner, primary/lead counsel (insert names of partners and each rate)

_____ \$ _____ per hour
_____ \$ _____ per hour
_____ \$ _____ per hour

Associate attorney (insert names of associates and each rate)

_____ \$ _____ per hour
_____ \$ _____ per hour
_____ \$ _____ per hour

Law clerks/paralegal (insert names and each rate)

_____ \$ _____ per hour
_____ \$ _____ per hour
_____ \$ _____ per hour

Optional: See **Exhibit 4** for the Firm's hourly rates.

(2) Other

If the Firm's compensation is set by other than hourly rate, specify:

e. THE FIRM'S EXPENSE REIMBURSEMENT RATES ARE:

Fax in & fax out _____ (Actual cost, not to exceed \$0.10 per page)

Messenger Actual cost

Photocopies _____ (Actual cost, not to exceed \$0.10 per page)

Postage Actual cost

Telephone No charge

Other: (*describe expense*)

_____ (Actual cost)

_____ (Actual cost)

f. Neither the Firm nor I request any lien on any retainer received in this case or on any property of the estate.

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

Date: _____

By: _____
Signature of proposed t Professional

Name: _____
Printed name of proposed Professional

DECLARATION OF DEBTOR IN POSSESSION

I, _____, am the Debtor in Possession in this case.

To the best of my knowledge, all of the Professional's connections with the Debtor, creditors, or any party in interest, their respective attorneys and accountants, the United States trustee or any person employed in the office of the United States trustee are as stated in the attached Declaration of Professional.

I paid the following amounts to _____ as follows:

<u>Amount</u>	<u>Date of Payment</u>	<u>Source of Funds</u>
\$		
\$		

I caused to be paid \$ _____ to _____ pursuant to our initial retainer agreement, and have agreed that fees are to be billed against this amount.

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

Date: _____

By: _____
Signature of Debtor in Possession

Name: _____
Printed name of Debtor in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION IN INDIVIDUAL CHAPTER 11 CASE FOR ORDER AUTHORIZING DEBTOR IN POSSESSION TO EMPLOY PROFESSIONAL (OTHER THAN GENERAL BANKRUPTCY COUNSEL) [LBR 2014-1]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On *(date)* _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

Date

Printed Name

Signature

This form is optional. It has been approved for use in the United States Bankruptcy Court for the Central District of California.