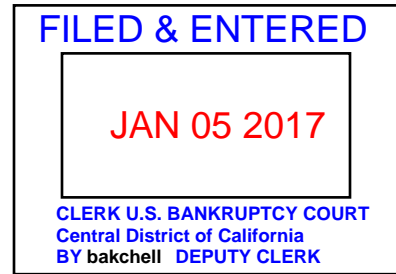


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7 **NOT FOR PUBLICATION** **CHANGES MADE BY COURT**
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **LOS ANGELES DIVISION**

12 In re:) Case No.: 2:16-bk-15322-RK
13)
14) Chapter 11
15)
16 **CURTIS C. MAGLEBY,**) **ORDER ON MOTION OF DEBTOR CURTIS C.**
17) **MAGLEBY FOR ORDER APPROVING**
18) **COMPROMISE BETWEEN DEBTOR AND CB**
19) **FRANCHISE SYSTEMS, LLC, PURSUANT TO**
20) **FRBP 9019**
21)
22) Date: N/A
23) Time: N/A
24) Ctrm: 1645, Roybal Federal Bldg.
25) 255 E. Temple St.
26) Los Angeles, CA 90012
27)
28) Debtor.

22 This matter came before the court on the Motion (the "Motion") [Dkt.134] for Order Approving
23 Settlement between Debtor and CB Franchise Systems, LLC, pursuant to Federal Rule of Bankruptcy
24 Procedure 9019.

25 The court, having reviewed and considered the Motion and all supporting documents, and good
26 cause appearing therefor, rules as follows.

27 Federal Rule of Bankruptcy Procedure 9019 provides as follows: "On motion by the trustee [or
28 debtor-in-possession] **and after notice and a hearing**, the court may approve a compromise."

1 Emphasis added; see also, 11 U.S.C. § 1107 (a debtor-in-possession generally has the rights, powers and
2 duties of a trustee in a Chapter 11 case). Under Local Bankruptcy Rules 9013-1(a), (o) and (p), a
3 motion to approve a compromise or settlement pursuant to Federal Rule of Bankruptcy Procedure may
4 **not** be determined with notice but without a hearing. That is, Local Bankruptcy Rule 9013-1(p)
5 provides an exclusive list of which motions and matters may be determined with notice but without a
6 hearing, and a motion to approve a compromise or settlement pursuant to Federal Rule of Bankruptcy
7 Procedure 9019 is not included therein. Rather, the applicable Local Bankruptcy Rules governing
8 motions to approve a compromise or settlement pursuant to Federal Rule of Bankruptcy Procedure 9019
9 are Local Bankruptcy Rule 9013-1(a), which provides that such matters may be determined after notice
10 and a hearing, and Local Bankruptcy Rule 9013-1(o), which provides that such matters may be
11 determined upon notice of an opportunity to request a hearing.

12 Because the notice of the Motion, ECF 135, was filed pursuant to Local Bankruptcy Rule 9013-
13 1(p), no hearing was set, nor was an opportunity to request a hearing provided, the court determines that
14 the Motion is deficient because the requirements of Federal Rule of Bankruptcy Procedure 9019 for
15 notice and a hearing have not been satisfied. However, the Motion should be denied for improper
16 service, but rather than denying the Motion outright now, the court will afford Debtor as the debtor-in-
17 possession to remedy this procedural defect by filing an amended notice of motion and hearing (or
18 opportunity for hearing) within 21 days of entry of this order.

19 However, because this is not the first time that proposed counsel for Debtor, Illyssa I. Fogel, has
20 failed to comply with applicable rules of court in this case, the court determines that Ms. Fogel is in
21 need of remedial review of the bankruptcy rules and further orders that Ms. Fogel must read Federal
22 Rule of Bankruptcy Procedure 9019 and Local Bankruptcy Rule 9013-1 in their entirety and file a
23 declaration under penalty of perjury that she has read and understood those rules within 14 days of entry
24 of this order.

25 Accordingly, the court **HEREBY ORDERS** as follows:

- 26 1. Debtor is granted leave to file and serve an amended notice of motion for the Motion which
27 either sets the Motion for hearing or gives the appropriate parties an opportunity to request a
28 hearing in compliance with Federal Rule of Bankruptcy Procedure 9019 and Local

1 Bankruptcy Rule 9013-1, accompanied by an additional copy of the Motion, within 14 days
2 of entry of this order, or otherwise, the court will deny the Motion without prejudice.

- 3 2. Proposed counsel for Debtor, Illyssa I. Fogel, is hereby ordered to read Federal Rule of
4 Bankruptcy Procedure 9019 and Local Bankruptcy Rule 9013-1 in their entirety and file a
5 declaration under penalty of perjury that she has read and understood those rules within 14
6 days of entry of this order.

7 IT IS SO ORDERED.

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25 Date: January 5, 2017



26 Robert Kwan
27 United States Bankruptcy Judge
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