

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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_____)	
In re:)	Chapter 11 Cases
)	Case No. 08-10928 (JKO)
TOUSA, Inc., <u>et al.</u> ,)	Jointly Administered
)	
Debtors.)	
_____)	

AMENDED EX PARTE MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF TOUSA, INC., ET AL. TO SHORTEN NOTICE FOR HEARING ON COMMITTEE’S MOTION FOR ENTRY OF AN AGREED ORDER APPROVING AMENDED FEE STRUCTURE FOR MOELIS & COMPANY LLC NUNC PRO TUNC TO OCTOBER 1, 2009

The Official Committee of Unsecured Creditors (the “Committee”) of TOUSA, Inc., et al. (collectively, the “Debtors”) seeks entry of an order, substantially in the form attached hereto as Exhibit A, shortening the notice required with respect to the concurrently filed *Motion of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. for Entry of an Agreed Order Approving Amended Fee Structure for Moelis & Company LLC Nunc Pro Tunc to October 1, 2009* (the “Motion”).¹ In support of this motion, the Committee respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

2. The statutory and legal predicates for the relief sought herein is Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

RELIEF REQUESTED

3. On January 31, 2008, the Court entered its *Order Establishing Certain Notice, Case Management and Administrative Procedures* (D.E. # 100) (the “Case Management Order”), which established certain procedures (the “Case Management Procedures”) governing the administration of the Debtors’ chapter 11 cases. The Debtors subsequently amended the Case Management Procedures by order dated March 25, 2008 (D.E. # 655).

4. Paragraph A(2)(c) of the Case Management Procedures permits the Debtors to request that the Court schedule omnibus hearings. As outlined in the Case Management Procedures, motions shall be set for hearing by the clerk of the Court pursuant to the following procedure:

In accordance with Rule 9073-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of Florida . . . the Clerk’s Office shall set motions on the date of the upcoming Omnibus Hearing no less than fifteen (15) days after the next filing of the request for relief.

Case Management Procedures ¶ A(2)(a). The Debtors have a hearing scheduled for June 16, 2010 at 1:30 p.m. (the “June 16th Hearing”).

5. Based on the relevant portion of the Case Management Procedures cited above, motions to be heard at the June 16th Hearing needed to be filed with the Court and served on (or before) June 1, 2010 (*i.e.*, fifteen days in advance of the June 16th Hearing).

6. The relief sought in the Motion, however, was not finalized and agreed to until after June 1, 2010. Accordingly, it was not possible to file the Motion in time to provide the fifteen-day notice period required by the Case Management Procedures before the June 16th Hearing. The Committee believes, however, that the relief sought in the Motion, which

modifies and ultimately reduces the fees payable to the Committee's financial advisor, is in the best interests of the Debtors' estates. Moreover, the negotiations on this matter have extended for several months and resolving the matters addressed in the Motion will prevent the parties from incurring additional costs in connection with prolonged negotiation.

7. In light of the foregoing, the Committee seek entry of an order shortening the notice required with respect to the Motion from fifteen days to eight days. The Committee submits that the notice period with respect to the relief requested in the Motion is sufficient under the circumstances. The Committee further submits that no party entitled to notice will be prejudiced by shortening the notice period with respect to the hearing on the Motion.

NOTICE

8. Pursuant to Bankruptcy Rule 9006(c)(1), the Court may shorten time without notice. The Committee nonetheless proposes to serve this motion and the Motion via overnight mail upon the United States Trustee and counsel to the Debtors.

WHEREFORE, the Committee respectfully requests that this Court enter an order, substantially in the form attached hereto as Exhibit A, (a) allowing for a shortened notice period for the Motion; (b) allowing for the Motion to be set for hearing on June 16, 2010; and (c) granting such other and further relief as is just, proper and equitable.

Dated: June 8, 2010

Respectfully submitted,

**STEARNS WEAVER MILLER WEISSLER
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By: /s/ Patricia A. Redmond
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-and-

We hereby certify that the undersigned attorneys are appearing pro hac vice in this matter pursuant to Court orders dated February 27, 2008 and March 3, 2008.

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EXHIBIT A

Proposed Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
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_____)	
In re:)	Chapter 11 Cases
)	Case No. 08-10928 (JKO)
TOUSA, Inc., <u>et al.</u> ,)	Jointly Administered
)	
Debtors.)	
_____)	

ORDER GRANTING *EX PARTE* MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF TOUSA, INC., *ET AL.* TO SHORTEN NOTICE FOR HEARING ON COMMITTEE’S MOTION FOR ENTRY OF AN AGREED ORDER APPROVING AMENDED FEE STRUCTURE FOR MOELIS & COMPANY LLC *NUNC PRO TUNC* TO OCTOBER 1, 2009

Upon the *ex parte* motion [D.E. # ____] (the “Motion”) of the Official Committee of Unsecured Creditors (the “Committee”) of TOUSA, Inc., et al. (collectively, the “Debtors”) for entry of an order allowing for a shortened notice period for the *Motion of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. for Entry of an Agreed Order Approving Amended Fee Structure for Moelis & Company LLC Nunc Pro Tunc to October 1, 2009*; and it appearing

that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors and all other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that no other or further notice is necessary; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The relief requested in the Motion is GRANTED.
2. The hearing on the *Motion of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al. for Entry of an Agreed Order Approving Amended Fee Structure for Moelis & Company LLC Nunc Pro Tunc to October 1, 2009* is set for June 16, 2010 at 1:30 p.m.