

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
RED TOP RENTALS, INC.) CAUSE NO: 09-05229-JKC-11
)
)
DEBTOR.)
)
_____)

**FIRST DAY MOTION TO LIMIT NOTICE GENERALLY AND ESTABLISH
CERTAIN CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtor and debtor in possession (collectively, the “Debtor”), by counsel, and in support of the above entitled motion (this “Motion”) respectfully states as follows:

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 157(b)(2)(A). Venue of these proceedings and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are sections 102(1) and 105 of Title 11 of the United States Code (as amended, the “Bankruptcy Code”) and Bankruptcy Rules 2002, 9006 and 9007 and Local Bankruptcy Rules B-9013-3(f)(5) & B-9029-1(e).

2. By this Motion, the Debtor seeks an order limiting notice generally and establishing certain case management and administrative procedures, all subject to further orders of the Court, including: (a) directing that all matters be heard at omnibus hearings (the “Omnibus Hearings”) to be scheduled in advance by the Court; (b) generally limiting notice on certain pleadings; and (c) encouraging service by email.

A. MONTHLY OMNIBUS HEARINGS

3. By this Motion the Debtor requests that, to the extent feasible and convenient to the Court, all matters be heard at monthly Omnibus Hearings. The Debtor submits that as a mid-sized chapter 11 case in this district, a substantial amount of pleadings will be filed and there will be a corresponding number of hearings. Most of the matters brought before the Court will not be of an emergency nature. By scheduling monthly Omnibus hearings in advance, parties will be able to plan for hearings on important matters; moreover, regularly scheduled hearings will likely reduce the need for emergency hearings and/or expedited relief, or at the very least provide pre-scheduled hearing times for such emergencies as may come up from time to time.

4. The Debtor submits that monthly Omnibus Hearings are intended to reduce the economic burden on the Debtor's estate and promote judicial economy by easing the Court's administration of this case by reducing the number of hearings, orders setting those hearings, and notices of those hearings.

5. Specifically, the Debtor proposes that all matters requiring a hearing be heard at monthly Omnibus Hearings, unless the Court orders otherwise for good cause shown, and the Court schedule the dates and times for the first three Omnibus Hearings. No later than the last Omnibus Hearing so scheduled, the Debtor intends to request that further Omnibus Hearings be scheduled to the extent necessary.

6. The Debtor further proposes that any entity submitting a matter for consideration at an Omnibus Hearing be required to serve the applicable motion or application and all supporting documentation no less than twenty three (23) days prior to the applicable hearing

date, thus preserving a standard, non-shortened notice period of twenty (20) days, and allowing sufficient time for approval and mailing of notice.

7. By this procedure, the Debtor is not seeking to shorten notice; specifically, the Debtor does not seek to shorten notice on those pleadings that require a longer than a twenty day notice period, which are: (1) the time fixed for filing objections and the hearing on the disclosure statement. Bankruptcy Rule 2002(b) and 3017(a); (2) the time fixed for filing objections and the hearing to consider plan confirmation. Bankruptcy Rule 2002(b); (3) the time fixed for objecting to discharge. Bankruptcy Rule 4004(a); (4) the time for filing an inventory (if required) Bankruptcy Rule 2015(a)(1); (5) objections to proofs of claims Bankruptcy Rule 3007; and (6) any other pleading for which the Court lengthens the notice period. Bankruptcy Rule 9006.

8. The Debtor also proposes that unless otherwise ordered by the Court, the objection deadline for all matters shall be no later than the seventh calendar date before the applicable hearing date.

9. The Debtor further proposes that parties be allowed to participate in the Omnibus Hearing by telephone (with certain geographic and other restrictions) and that a proposed agenda be filed prior to the Omnibus Hearing.

B. LIMITING NOTICE GENERALLY

3. Where the Debtor or another filing party is either required or elects to distribute a notice in respect of a pleading they filed (except for notices pursuant to Bankruptcy Rules 2002(a), (b), (d) and (f)), the Debtor seeks authority to generally limit such notice to the Service List (as defined in Local Rule B-2002-1(c)(2)), plus any party filing a proof of claim, and any party directly affected by the relief requested. Bankruptcy Rules 2002(a), (b), (d) and (f) require notice to all creditors of some of the major pleadings and events that will occur in this case, such

as claims bar dates, plan and disclosure statement objections, and the 341 meeting notice. This Motion does not seek to limit notice on those items, rather it seeks to limit notice on all other items.

4. The Debtor submits that cause exists to generally limit notice as described herein because those parties on the Service List (Debtor, Debtor's counsel, UST, twenty largest unsecured creditors, counsel for the creditors' committee, all secured creditors or their counsel, and any party that has filed an appearance) plus parties that have filed proofs of claim likely represent 90% or more of the outstanding debt of the estate, represent a broad cross section of parties in interest in this matter, and as such can effectively represent the interests of those who do not get notice, which are generally smaller, general unsecured creditors.

5. The Debtor is already required by Local Rule B-2002-1(c)(2) & (3) to file and update the Service List at least monthly throughout the term of the case, thus access to the Service List is readily available to all filers. Moreover, the Debtor will make the updated Service List (and other documents helpful to administration of the case) publically available, free of charge at <http://www.tucker-hester.com/caseinfo/redtop>. In addition, and as part of these procedures, the Debtor proposes to include (and so designate) on the Service List the contact information of any party that has filed a proof of claim in this case since the last version of the Service List was filed. Thus, at any given time in this case, use of the Service List to distribute a notice shall provide notice not only to the Debtor, Debtor's counsel, UST, twenty largest unsecured creditors, counsel for the creditors' committee, all secured creditors or their counsel and any party that has filed an appearance, but also all parties that have filed proofs of claim (excluding only very recently filed proofs of claim).

C. EMAIL NOTICE PROCEDURES

6. The Debtor submits that most parties in interest in this case will be registrants in the CM/ECF system, approved by Standing Order No. 04-0005 and entered on September 9, 2004 (the “Electronic Filing Order”). As a result, such parties only receive pleadings and notices by email. Email is a preferred, economical and highly efficient method for service and parties are encouraged to accept service by email in this district. See Local Rule B-2002-1(c)(1).

7. The Debtor seeks authority for all filing parties to serve pleadings and notices by email only on the Service List (which includes parties that have filed proofs of claim in this case, if approved herein), **to the extent such parties agree to service by email**. The Debtor shall actively seek authority from all parties that are not registrants in the CM/ECF system, including parties filing proofs of claim, to accept service by email. Providing an email address of such party on the Service List shall constitute Debtor’s counsels’ representation to the Court that such party has authorized service by email. To the extent email service by such party is not authorized, service to such parties must be affected by the Bankruptcy Rules and Local Bankruptcy Rules.

D. L.R. B-9013-3(B)

8. **Statement pursuant to L.R. B-9013-3(b)**. Prior to filing this Motion, below signed counsel emailed a copy of this Motion (or a substantially similar version of this Motion) to counsel for the United States Trustee. Since then, below signed counsel and counsel for the UST have discussed its contents. Additionally, below signed counsel has contacted the senior courtroom deputy to advise that a case with first day motions will be filed. No other parties are effected by this motion.

9. Attached hereto as **Attachment A** is an order the Debtor has drafted regarding this Motion. The Debtor requests this order be used by the Court to grant the relief requested herein.

Request for Relief

WHEREFORE, the Debtor respectfully requests that the Court enter an order substantially in the form of the proposed order annexed hereto as **Attachment A** and grant such other and further relief as is just and proper.

Respectfully submitted,

TUCKER | HESTER, LLC

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