



*Entry of an Order (I) Authorizing Assumption of Insurance Program; (II) Authorizing the Debtors to Enter into Insurance Agreements; and (III) Granting Related Relief (the "Insurance Motion")*<sup>2</sup> and (b) the *Debtors' Motion for an Order Pursuant to Section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018 for Authorization to File Certain Insurance Agreements, Related to Debtors' Motion for Entry of an Order (I) Authorizing Assumption of Insurance Program; (II) Authorizing the Debtors to Enter into Insurance Agreements; and (III) Granting Related Relief, Under Seal (the "Seal Motion,"* and together with the Insurance Motion, the "**Motions**"), so that the Motions may be heard on October 30, 2009 at 2:30 p.m. (ET).

1. The Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") require twenty (20) days' notice prior to the hearing date for motions involving the use or sale of estate property. *See* Fed. R. Bankr. P. 2002(a)(2). Likewise, Local Rule 9006-1(c) provides for a sixteen (16) day notice period (if service is by overnight delivery) for motions not otherwise governed by the Bankruptcy Rules or the Local Rules. Pursuant to Local Rule 9006-1(e), however, such periods may be shortened by Order of the Court upon written motion specifying the exigencies supporting shortened notice.

2. The Debtors submit that there is sufficient cause to justify shortening the notice period for the hearing on approval of the Motions as it relates to the relief sought therein. As set forth more fully in the Insurance Motion, under the laws of the various states in which the Debtors operate, the Debtors are required to maintain workers' compensation, general liability and automobile liability insurance. The Debtors' current insurance program

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Insurance Motion.

with ACE American Insurance Company ("*ACE*"), which is the Debtors' primary insurance program, expires on November 11, 2009. The Debtors have been actively negotiating with ACE for the past several weeks for extended coverage, and yesterday (October 27, 2009) the parties were able to finalize the terms of new workers' compensation and automobile liability policies and an extension of the Debtors' general liability policies.

3. As a condition to continued insurance coverage from ACE, the Debtors are required to obtain an order from this Court, by no later than October 30, 2009:

(i) authorizing the Debtors to assume the ACE Insurance Program pursuant to section 365 of the Bankruptcy Code; (ii) authorizing the Debtors to enter into the Insurance Agreements; and (iii) granting related relief. Failure to adhere to this condition would result in ACE terminating the Insurance Agreements. Without insurance coverage, the Debtors simply cannot operate. Thus, because the Debtors' current insurance policies expire on November 11, 2009, it is critical that the Insurance Motion be heard in time for the required order to be entered and become final before November 11th.

4. As a result of the expedited timeframe within which the Debtors must renew the ACE Insurance Program and Insurance Agreements and satisfy the requirements necessary to do so, and because the ACE Insurance Program and Insurance Agreements are critical to the success of the Debtors' business operations and chapter 11 efforts, the Debtors submit that it is necessary and in the best interests of these estates for the relief sought in the Insurance Motion to be considered and approved on October 30th. Absent the relief requested herein, ACE will terminate the Insurance Agreements and the Debtors will be forced to halt their business operations.

5. In addition to shortening the notice period for consideration of the Insurance Motion, the Debtors request this Court to shorten the applicable notice period for the Seal Motion. Because the Insurance Agreements contain non-public, commercially sensitive information regarding the policy terms and limits for the Insurance Agreements, the Debtors submit that filing the Insurance Agreements under seal is necessary. The Debtors further submit that consideration of the relief requested therein on October 30, 2009 is necessary since the Debtors are requesting this Court to consider the Insurance Motion on that same date.

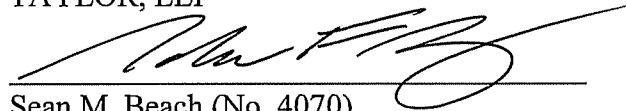
6. In light of the foregoing, the Debtors submit that consideration of the Motions on October 30th is necessary and in the best interests of the Debtors, their estates and creditors and other parties in interest so that the Motions and the relief requested therein, which are inextricably tied to the Debtors' efforts to preserve and maximize the value of their estates, can be approved on an expedited basis. Furthermore, prior to the filing of this Motion to Shorten and the Motions, the Debtors conferred with the Creditors' Committee regarding the relief requested in the Insurance Motion, and do not believe that the Creditors' Committee opposes the relief requested in the Insurance Motion and proceeding on the expedited basis requested herein.

7. Because of the shortened notice period, the Debtors propose to give any party objecting to the Motions until October 30, 2009 at 12:00 p.m. (ET) to file and serve any objections upon the undersigned counsel for the Debtors. Given the shortened notice period, the Motions will be served by overnight and/or electronic or hand delivery on: (i) the United States Trustee; (ii) counsel to the Creditors' Committee; (iii) counsel to the agent for the Debtors' debtor-in-possession and prepetition secured lenders; (iv) counsel to ACE; and (v) all parties entitled to notice under Bankruptcy Rule 2002.

WHEREFORE, the Debtors respectfully request the Court to enter an order, substantially in the form attached hereto as *Exhibit A*, scheduling a hearing on the relief requested in the Motions for October 30, 2009 at 2:30 p.m. (ET) and requiring that any responses to the Motions be filed and served upon the undersigned counsel so as to be received on or before October 30, 2009 at 12:00 p.m. (ET).

Dated: Wilmington, Delaware  
October 28, 2009

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ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION

**EXHIBIT A**  
**Proposed Order**



Relief (the "**Insurance Motion**") and (b) the Debtors' Motion for an Order Pursuant to Section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018 for Authorization to File Certain Insurance Agreements, Related to Debtors' Motion for Entry of an Order (I) Authorizing Assumption of Insurance Program; (II) Authorizing the Debtors to Enter into Insurance Agreements; and (III) Granting Related Relief, Under Seal (the "**Seal Motion**," and together with the Insurance Motion, the "**Motions**") be shortened pursuant to Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware; and the Court having determined that granting the relief requested in the Motion to Shorten is in the best interests of the Debtors, their estates, and creditors and other parties in interest; and it appearing that due and adequate notice of the Motion to Shorten has been given under the circumstances, and that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED:**

1. The Motion to Shorten is granted.
2. Approval of the Motions shall be considered by this Court on October 30, 2009 at 2:30 p.m. (ET).
3. Any objections to the relief requested in the Motions shall be filed and served upon counsel to the Debtors no later than October 30, 2009 at 12:00 p.m. (ET).
4. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware  
October \_\_\_\_, 2009

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Kevin J. Carey  
Chief United States Bankruptcy Judge