Hearing Date and Time: February 1, 2016 at 10:00 a.m. (ET)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
RELATIVITY FASHION, LLC, *et al.*,[1]	Case No. 15-11989 (MEW)
Debtors.	(Jointly Administered)

DEBTORS' (I) MEMORANDUM OF LAW IN SUPPORT OF CONFIRMATION OF THIRD AMENDED AND RESTATED PLAN AND (II) OMNIBUS REPLY TO OBJECTIONS WITH RESPECT TO PLAN AND RELATED PROCEEDINGS

[1] The Debtors in these chapter 11 cases are set forth on page (i).

The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Relativity Fashion, LLC (4571); Relativity Holdings LLC (7052); Relativity Media, LLC (0844); Relativity REAL, LLC (1653); RML Distribution Domestic, LLC (6528); RML Distribution International, LLC (6749); RMLDD Financing, LLC (9114); 21 & Over Productions, LLC (7796); 3 Days to Kill Productions, LLC (5747); A Perfect Getaway P.R., LLC (9252); A Perfect Getaway, LLC (3939); Armored Car Productions, LLC (2750); Best of Me Productions, LLC (1490); Black Or White Films, LLC (6718); Blackbird Productions, LLC (8037); Brant Point Productions, LLC (9994); Brick Mansions Acquisitions, LLC (3910); Brilliant Films, LLC (0448); Brothers Productions, LLC (9930); Brothers Servicing, LLC (5849); Catfish Productions, LLC (7728); Cine Productions, LLC (8359); CinePost, LLC (8440); Cisco Beach Media, LLC (8621); Cliff Road Media, LLC (7065); Den of Thieves Films, LLC (3046); Don Jon Acquisitions, LLC (7951); DR Productions, LLC (7803); Einstein Rentals, LLC (5861); English Breakfast Media, LLC (2240); Furnace Films, LLC (3558); Gotti Acquisitions, LLC (6562); Great Point Productions, LLC (5813); Guido Contini Films, LLC (1031); Hooper Farm Music, LLC (3773); Hooper Farm Publishing, LLC (3762); Hummock Pond Properties, LLC (9862); Hunter Killer La Productions, LLC (1939); Hunter Killer Productions, LLC (3130); In The Hat Productions, LLC (3140); J&J Project, LLC (1832); JGAG Acquisitions, LLC (9221); Left Behind Acquisitions, LLC (1367); Long Pond Media, LLC (7197); Madaket Publishing, LLC (9356); Madaket Road Music, LLC (9352); Madvine RM, LLC (0646); Malavita Productions, LLC (8636); MB Productions, LLC (4477); Merchant of Shanghai Productions, LLC (7002); Miacomet Media LLC (7371); Miracle Shot Productions, LLC (0015); Most Wonderful Time Productions, LLC (0426); Movie Productions, LLC (9860); One Life Acquisitions, LLC (9061); Orange Street Media, LLC (3089); Out Of This World Productions, LLC (2322); Paranoia Acquisitions, LLC (8747); Phantom Acquisitions, LLC (6381); Pocomo Productions, LLC (1069); Relative Motion Music, LLC (8016); Relative Velocity Music, LLC (7169); Relativity Development, LLC (5296); Relativity Film Finance II, LLC (9082); Relativity Film Finance III, LLC (8893); Relativity Film Finance, LLC (2127); Relativity Films, LLC (5464); Relativity Foreign, LLC (8993); Relativity India Holdings, LLC (8921); Relativity Jackson, LLC (6116); Relativity Media Distribution, LLC (0264); Relativity Media Films, LLC (1574); Relativity Music Group, LLC (9540); Relativity Production LLC (7891); Relativity Rogue, LLC (3333); Relativity Senator, LLC (9044); Relativity Sky Land Asia Holdings, LLC (9582); Relativity TV, LLC (0227); Reveler Productions, LLC (2191); RML Acquisitions I, LLC (9406); RML Acquisitions II, LLC (9810); RML Acquisitions III, LLC (9116); RML Acquisitions IV, LLC (4997); RML Acquisitions IX, LLC (4410); RML Acquisitions V, LLC (9532); RML Acquisitions VI, LLC (9640); RML Acquisitions VII, LLC (7747); RML Acquisitions VIII, LLC (7459); RML Acquisitions X, LLC (1009); RML Acquisitions XI, LLC (2651); RML Acquisitions XII, LLC (4226); RML Acquisitions XIII, LLC (9614); RML Acquisitions XIV, LLC (1910); RML Acquisitions XV, LLC (5518); RML Bronze Films, LLC (8636); RML Damascus Films, LLC (6024); RML Desert Films, LLC (4564); RML Documentaries, LLC (7991); RML DR Films, LLC (0022); RML Echo Films, LLC (4656); RML Escobar Films LLC (0123); RML Film Development, LLC (3567); RML Films PR, LLC (1662); RML Hector Films, LLC (6054); RML Hillsong Films, LLC (3539); RML IFWT Films, LLC (1255); RML International Assets, LLC (1910); RML Jackson, LLC (1081); RML Kidnap Films, LLC (2708); RML Lazarus Films, LLC (0107); RML Nina Films, LLC (0495); RML November Films, LLC (9701); RML Oculus Films, LLC (2596); RML Our Father Films, LLC (6485); RML Romeo and Juliet Films, LLC (9509); RML Scripture Films, LLC (7845); RML Solace Films, LLC (5125); RML Somnia Films, LLC (7195); RML Timeless Productions, LLC (1996); RML Turkeys Films, LLC (8898); RML Very Good Girls Films, LLC (3685); RML WIB Films, LLC (0102); Rogue Digital, LLC (5578); Rogue Games, LLC (4812); Roguelife LLC (3442); Safe Haven Productions, LLC (6550); Sanctum Films, LLC (7736); Santa Claus Productions, LLC (7398); Smith Point Productions, LLC (9118); Snow White Productions, LLC (3175); Spy Next Door, LLC (3043); Story Development, LLC (0677); Straight Wharf Productions, LLC (5858); Strangers II, LLC (6152); Stretch Armstrong Productions, LLC (0213); Studio Merchandise, LLC (5738); Summer Forever Productions, LLC (9211); The Crow Productions, LLC (6707); Totally Interns, LLC (9980); Tribes of Palos Verdes Production, LLC (6638); Tuckernuck Music, LLC (8713); Tuckernuck Publishing, LLC (3960); Wright Girls Films, LLC (9639); Yuma, Inc. (1669); Zero Point Enterprises, LLC (9558). The location of the Debtors' corporate headquarters is: 9242 Beverly Blvd., Suite 300, Beverly Hills, CA 90210

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TO THE HONORABLE MICHAEL E. WILES,
UNITED STATES BANKRUPTCY JUDGE:

Relativity Fashion, LLC, and its affiliated debtors and debtors in possession in these chapter 11 cases (collectively, the "**Debtors**" and together with Ryan C. Kavanaugh ("**Kavanaugh**") and Joseph Nicholas ("**Nicholas**"), the "**Plan Proponents**") submit this memorandum of law (i) in support of confirmation of the Plan Proponents' Third Amended And Restated Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code (as the same may be amended, modified and/or supplemented, the "**Plan**") and (ii) as an omnibus reply to objections filed with respect to confirmation of the Plan or the assumption of certain executory contracts in connection therewith (the "**Objections**" and the parties that filed such Objections, the **"Objecting Parties"**). Exhibit A annexed hereto (the "**Objections Chart**") contains a summary of the Objections and the Debtors' responses thereto. An amended version of the Plan, along with comparisons to the previously-filed version, will be filed concurrently herewith. In support of confirmation, the Plan Proponents will also offer the testimony of Matthew Niemann, Ronald Hohauser, and Joseph Nicholas, and such other and further evidence as may be adduced at the upcoming hearing on confirmation (the "**Confirmation Hearing**"). The Plan Proponents respectfully request that the Court confirm the Plan for the reasons set forth herein, and upon the record that will be presented at the Confirmation Hearing.

Preliminary Statement

1 As a result of ongoing negotiations between the major parties in interest in these chapter 11 cases, the Plan, as modified, now embodies comprehensive settlements not only with

the Cortland Lenders, but also with RKA, the Manchester Parties, Macquarie and others.[1] In other words, all but one of the Debtors' secured lenders support the Plan and have voted overwhelmingly to accept it. The Plan is also supported by the Creditors Committee, and has been by accepted by creditors holding approximately 85% the unsecured debt (on a consolidated basis).

2 The Debtors have engaged in substantive negotiations with their largest stakeholders, and have reached significant settlements and support for their reorganization efforts, and additional negotiations are ongoing with the remaining objecting parties. An important component of the Plan, as amended, is the agreement that has been now finalized and filed with the Court for approval whereby RKA, the Debtors' principal print and advertising (P&A) lender on four (4) films to be released this year has agreed to vote in favor of the Plan and allow the Debtors to subordinate its existing liens to the New P&A/Ultimates Facility. This agreement facilitates the financing of the required P&A for the release of these films.

3 Another significant and related means of implementation of the Plan is an arrangement with Carat, the Debtors' media buyer, whereby Carat will provide significant credit terms up to a specified amount for media purchased through Carat related to advertising for the Debtors' completed but yet-to-be-released films. Such financing will go a long way towards paving the Debtors' path to emergence from chapter 11 by funding much of the media spend that is necessary to realize upon the films' value.

4 In addition, as detailed in the Objections Chart attached hereto, the Debtors have resolved, or are in the process of resolving, almost all of the remaining Objections, the vast

[1] Capitalized terms not otherwise defined herein have the meanings given to them in the Disclosure Statement or the Plan, as the case may be.

majority of which relate to executory contracts or unexpired leases to be assumed by the Debtors under the Plan, and the associated cure amounts. In addition to the contract-related Objections noted above, a handful of Objecting Parties have filed more substantive Objections with respect to confirmation of the Plan. Among other issues, each of these Objecting Parties has raised concerns with respect to the feasibility of the Plan. The Plan Proponents will fully address such concerns both herein and through the declarations, evidence and live testimony to be presented at the Confirmation Hearing by (i) Joseph Nicholas, Founder and Chairman of HFR Group L.L.C. and its affiliated companies and a member of the board of managers of Relativity Holdings; (ii) Matthew Niemann, Managing Director, Shareholder, and senior member of the Financial Restructuring Group of Houlihan Lokey, and (iii) Ronald Hohouser, a founding principal member at Latus Advisors, a financial and strategic consulting firm specializing in the film and entertainment industry and a financial consultant to the Debtors. Other issues raised by these Objecting Parties are individually addressed in Section I.B., below, or will be addressed in separate filings in the event that the parties are unable to consensually resolve such issues prior to the Confirmation Hearing.

5 As set forth below, the Plan satisfies each of the requirements for confirmation under section 1129 and other applicable provisions of the Bankruptcy Code and should be confirmed. In particular, the Plan has been proposed in good faith, is feasible, serves the best interests of the Debtors' creditors and is fair and equitable.

Background

6 The facts relevant to confirmation of the Plan are set forth in the Disclosure Statement, the Plan, and the evidence to be presented and testimony that may be adduced at the Confirmation Hearing, all of which are incorporated herein by reference.

Plan Solicitation and Voting Results

7 The results of voting on the Plan are fully set forth in the Declaration of Jung W. Song, Managing Director at Donlin, Recano & Company, Inc. filed concurrently herewith (the "**Voting Declaration**"). In brief, five (5) out of the six (6) Classes entitled to vote on the Plan voted to accept the Plan, and one (1) voted to reject the Plan.

The Objections

8 The Objections received by the Plan Proponents are summarized in the attached Objections Chart for the convenience of the Court and parties in interest. As reflected in the Objections Chart, a number of Objections (or potential Objections) have been addressed as set forth in stipulations that have been or will be separately filed with the Court. *See* Docket Nos. 1297 (RKA), 1454 (LAMF LLC), and 1432 (Manchester *et al.*). Additional Objections have been resolved through modifications to the Plan or by amendments to Exhibits E1, E2 and E3 to the Plan Supplement.[2] Finally, the Debtors have agreed with many of the Objecting Parties to postpone resolution of their Objections (which primarily relate to the determination of contract cure amounts) until the February 17, 2016 omnibus hearing.

9 Notable objections that remain unresolved as of this filing are: (i) CIT Bank, as Ultimates Agent (the "**Ultimates Agent**") [Docket Nos. 1259 & 1339]; (ii) Unifi Completion Guaranty Insurance Solutions, Inc. ("**Unifi**") [Docket No. 1342]; (iii) Colbeck Capital Management, LLC *et al*.(collectively, "**Colbeck**") [Docket No. 1344]; (iv) Netflix, Inc. ("**Netflix**") [Docket No. 1352]; (v) VII Peaks Co-Optivist Income BDC II, Inc. *et al*. (collectively, "**VII Peaks**") [Docket No. 1353]; and (vi) CIT Bank, as Production Loan Agent

[2] Exhibits E1, E2 and E3 set forth, respectively, (i) the list of executory contracts and unexpired leases being rejected under the Plan; (ii) the proposed cure amounts for executory contracts and unexpired leases being assumed under the Plan with a cure amount greater than $0; and (iii) the list of executory contracts and unexpired leases that are terminated).

and Lender (the "**Production Loan Agent**") [Docket No. 1414].[3] This memorandum addresses the Objections filed by the Ultimates Agent, Netflix, and VII Peaks. The Objections filed by UniFi, Colbeck and the Production Loan Agent will be addressed in a separate filing.

10 As indicated on the Objections Chart, the Debtors' discussions with various Objecting Parties, including the Production Loans Agent, are ongoing. To the extent that the Debtors are able to resolve any of the Objections that are presently unresolved in advance of the Confirmation Hearing, the Debtors will so notify the Court.

Argument

11 As discussed below, the Plan meets each of the requirements for confirmation set forth in section 1129 of the Bankruptcy Code, and should be confirmed.

I. THE PLAN MEETS EACH OF THE REQUIREMENTS FOR CONFIRMATION UNDER SECTION 1129 OF THE BANKRUPTCY CODE

12 Confirmation of a chapter 11 plan of reorganization is governed by Section 1129 of the Bankruptcy Code. Section 1129(a) sets forth the required elements for confirmation of a chapter 11 plan, which, as relevant to these chapter 11 cases, are as follows:

13 The plan complies with the applicable provisions of title 11. 11 U.S.C. § 1129(a)(1)).

14 The proponent of the plan complies with the applicable provisions of title 11. 11 U.S.C. § 1129(a)(2)).

[3] For the reasons set forth in the Objections Chart, the Debtors submit that no response is needed to the Objections filed by (i) Happy Walters [Docket No. 1331]; (ii) IATM, LLC *et al*. [Docket No. 1334]; (iii) Voltage Pictures LLC [Docket No. 1362]; and (iv) Bold Films Productions, LLC [Docket No. 1442]. In addition, the Debtors are awaiting a response to their request to adjourn the following Objections to the February 17, 2016 omnibus hearing so that they can be heard along with other contract and cure issues: (i) EuropaCorp S.A. [Docket No. 1409]; (ii) EuropaCorp Films USA, Inc. [Docket No. 1411]; and (iii) Silver Reel Entertainment Mezzanine Fund, L.P. et al.[Docket Nos. 1345, 1364, 1351]. To the extent that any of the aforementioned Objecting Parties does not agree to such adjournment, or the issues cannot otherwise be consensually resolved, the Debtors will address such Objection in a separate filing.

15 The plan has been proposed in good faith and not by any means forbidden by law. 11 U.S.C. § 1129(a)(3).

16 Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable 11 U.S.C. § 1129(a)(4).

17 (A) (i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and (ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and (B) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider. 11 U.S.C. § 1129(a)(5).

18 With respect to each impaired class of claims or interests, each holder of a claim or interest of such class either has accepted the plan or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were so liquidated under chapter 7 of the Bankruptcy Code on such date. 11 U.S.C. § 1129(a)(7).

19 Each class of claims or interests has either accepted the plan or is not impaired under the plan. 11 U.S.C. § 1129(a)(8)

20 The treatment of administrative expense and priority claims under the plan complies with the provisions of section 1129(a)(9). 11 U.S.C. § 1129(a)(9).

21 If a class of claims is impaired under the plan, at least one impaired class of claims has accepted the plan, determined without including the acceptances by any insiders holding claims in such class. 11 U.S.C. § 1129(a)(10).

22 Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan. 11 U.S.C. § 1129(a)(11).

23 The plan provides for payment on the effective date of all fees payable under 28 U.S.C. § 1930. 11 U.S.C. § 1129(a)(12).

24 The plan provides for the continued payment of certain retiree benefits for the duration of the period that the debtor has obligated itself to provide such benefits. 11 U.S.C. § 1129(a)(13).

11 U.S.C. § 1129(a).[4]

25 The Plan Proponents must establish by a preponderance of the evidence that all of the necessary elements for confirmation of the Plan under section 1129 of the Bankruptcy Code are satisfied. *See In re Bally Total Fitness of Greater N.Y., Inc.*, No. 07-12395, 2007 WL 2779438, at *3 (Bankr. S.D.N.Y. Sept. 17, 2007) ("The Debtors, as proponents of the Plan, have the burden of proving the satisfaction of the elements of Sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence."). Through evidence to be presented at

[4] Subsections (6) and (14)-(16) of section 1123(a) are not addressed here because they are inapplicable to the Debtors or the Plan being proposed. Specifically, section 1129(a)(6), which requires that "[a]ny governmental regulatory commission with jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate change provided for in the plan, or such rate change is expressly conditioned on such approval," 11 U.S.C. § 1129(a)(6), is inapplicable because the Debtors' businesses do not involve the establishment of rates over which any regulatory commission has jurisdiction or will have jurisdiction after Confirmation; section 1129(a)(14) applies only where the debtor is required to pay domestic support obligations during the pendency of the case, *see* 11 U.S.C. § 1123(a)(14), which is not the case here; section 1129(a)(15) applies only to individual, and not corporate, debtors, *see* 11 U.S.C. § 1123(a)(15); and section 1129(a)(16) applies only where the plan involves transfers of property by a corporation or trust that is "not a moneyed, business, or commercial corporation or trust," which is not the case here. 11 U.S.C. § 1123(a)(16).

the Confirmation Hearing, as set forth in the Declarations and cited herein, the Debtors will demonstrate (by a preponderance of the evidence) that the Plan satisfies such requirements and should be confirmed.

A. The Plan Meets Each of the Requirements for Confirmation Under Section 1129(a) of the Bankruptcy Code

1. The Plan Complies With Applicable Provisions of the Bankruptcy Code as Required by Section 1129(a)(1)

26 Section 1129(a)(1) of the Bankruptcy Code provides that a court may confirm a chapter 11 plan only if "[t]he plan complies with the applicable provisions of [the Bankruptcy Code]." 11 U.S.C. § 1129(a)(1). The legislative history of section 1129(a)(1) indicates that the primary focus of this requirement is to ensure that the form of the plan complies with the provisions of sections 1122 (classification of claims and interests) and section 1123 (contents of a plan) of the Bankruptcy Code. *See* S. Rep. No. 95-989, 95th Cong. 2nd Sess. 126 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787, 5913; H.R. Rep. No. 95-595, 95th Cong. 1st Sess. 412 (1977), *reprinted in* 1978 U.S.C.C.A.N. 5963, 6368; see also *In re Johns-Manville Corp.*, 68 B.R. 618, 629 (Bankr. S.D.N.Y. 1986) (stating that "[o]bjections to confirmation raised under § 1129(a)(1) generally involve the failure of a plan to conform to the requirements of § 1122(a) or § 1123."), *aff'd in part, rev'd in part on other grounds*, 78 B.R. 407 (S.D.N.Y. 1987), *aff'd sub nom.*, *Kane v. Johns-Manville Corp.*, 843 F.2d 636 (2d Cir. 1988). As demonstrated below, the Plan fully complies with all of the applicable provisions of the Bankruptcy Code (as required by section 1129(a)(1) of the Bankruptcy Code), including, without limitation, sections 1122 and 1123 of the Bankruptcy Code.

(a) The Plan's Classification Scheme Complies With Section 1122 of the Bankruptcy Code

27 Under section 1122(a) of the Bankruptcy Code, "[a] debtor in bankruptcy has considerable discretion to classify claims and interests in a chapter 11 reorganization plan." *In re Wabash Valley Power Ass'n*, 72 F.3d 1305, 1321 (7th Cir. 1996); *accord Aetna Cas. & Sur. Co. v. Clerk, U.S. Bankr. Ct. (In re Chateaugay Corp.)*, 89 F.3d 942, 949 (2d Cir. 1996). Section 1122(a) provides that a plan may place a claim or interest in a particular class only if it is "substantially similar to the other claims or interests of such class." 11 U.S.C. § 1122(a). "Substantially similar" generally has been interpreted to mean similar in legal character to other claims against a debtor's assets or to other interests in a debtor. *See In re Drexel Burnham Lambert Group, Inc.*, 138 B.R. 714, 715-716 (Bankr. S.D.N.Y. 1992) *order aff'd*, 140 B.R. 347 (S.D.N.Y. 1992) ("*Drexel Burnham Lambert I*"); *In re MCorp Fin., Inc.*, 137 B.R. 219, 226 (Bankr. S.D. Tex. 1992), *appeal dismissed*, 139 B.R. 820 (S.D. Tex. 1992). Although the inclusion of dissimilar claims in the same class is prohibited, it is not necessary that all similar claims be placed in a single class. *In re Drexel Burnham Lambert I*, 138 B.R. at 757 ("Courts have found that the Bankruptcy Code only prohibits the identical classification of dissimilar claims. It does not require that similar classes be grouped together."). Thus, section 1122 of the Bankruptcy Code provides a debtor with a large amount of flexibility to create classification schemes that will facilitate its restructuring. Recognizing this flexibility, courts have long held that "the only express prohibition on separate classification is that it may not be done to gerrymander an affirmative vote on a reorganization plan." *Boston Post Rd. Ltd. P'ship v. FDIC (In re Boston Post Rd. Ltd. P'ship)*, 21 F.3d 477, 481 (2d Cir. 1994) (holding that similar claims may be separately classified unless the sole purpose is to engineer an assenting impaired class); *Aetna Cas. & Sur. Co. v. Clerk of the U.S. Bankr. Ct., (In re Chateaugay Corp.)*, 89 F.3d 942,

950 (2d Cir. 1996) (finding separate classification was proper since the plan did not classify similar claims separately to gerrymander an impaired consenting class).

28 The Plan designates a total of 12 classes of Claims and Interests of the Debtors. This classification scheme complies with section 1122(a) because each Class contains only Claims or Interests that are substantially similar to each other. Furthermore, the classification scheme created by the Plan is based on the similar nature of Claims or Interests contained in each Class and not on any impermissible classification factor. Finally, similar Claims and Interests have not been placed into different Classes in order to affect the outcome of the vote on the Plan.

29 Because each Class consists of only substantially similar Claims or Interests, the Court should approve the classification scheme as set forth in the Plan as consistent with section 1122(a) of the Bankruptcy Code.

(b) The Plan Satisfies the Requirements of Section 1123 of the Bankruptcy Code.

30 Section 1123 of the Bankruptcy Code sets forth both mandatory and optional elements for a plan of reorganization. As discussed below, the Plan (a) satisfies each of the mandatory elements of section 1123(a), (b) includes several of the optional provisions set forth in section 1123(b); and (c) includes other provisions not inconsistent with the applicable provisions of the Bankruptcy Code, as permitted by section 1123(b)(6).

(i) Mandatory Provisions – Section 1123(a)

31 Section 1123(a) identifies seven requirements for the contents of a plan of reorganization filed by a corporate debtor.[5] As demonstrated herein, the Plan fully complies with

[5] Section 1123(a)(8) of the Bankruptcy Code applies only in cases "in which the debtor is an individual" and is thus inapplicable to the Chapter 11 Cases. 11 U.S.C. § 1123(a)(8).

each such requirement. Specifically, section 1123(a) of the Bankruptcy Code requires that the Plan:

(a) designate Classes of Claims and Interests;

(b) specify unimpaired Classes of Claims and Interests;

(c) specify treatment of impaired Classes of Claims and Interests;

(d) provide for equality of treatment within each Class;

(e) provide adequate means for the Plan's implementation;

(f) prohibit the issuance of nonvoting equity securities and provide an appropriate distribution of voting power among the classes of securities; and

(g) contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of the Reorganized Debtors' officers and directors.

11 U.S.C. § 1123(a)(1)–(7).

32 With respect to the first three requirements of section 1123(a), the Plan satisfies these requirements by: (a) designating 12 Classes of Claims and Interests, not including Claims of the kinds specified in sections 507(a)(2), (a)(3) and (a)(8) of the Bankruptcy Code, as required by section 1123(a)(l); (b) specifying the classes of Claims and Interests that are unimpaired under the Plan, as required by section 1123(a)(2); and (c) specifying the treatment of each Class of Claims and Interests that is impaired, as required by section 1123(a)(3). *See* Plan § II.

33 The Plan also satisfies section 1123(a)(4) of the Bankruptcy Code because the treatment of each Claim or Interest within a Class is the same as the treatment of each other Claim or Interest within that Class.

34 Section 1123(a)(5) of the Bankruptcy Code requires that a plan "provide adequate means for the plan's implementation," and gives several examples of what may constitute "adequate means" for implementation. 11 U.S.C. § 1123(a)(5). Section III of the Plan sets forth

the means for implementation of the Plan, which the Debtors submit are adequate. These implementation mechanisms include:

35 the issuance of the Reorganized Relativity Holdings Preferred Units, Reorganized Relativity Holdings Common Units, and Reorganized Relativity Holdings Warrants, *see* Plan § III.A-C;

36 the continued corporate existence and vesting of assets in the Reorganized Debtors, *see* Plan § III.D;

37 the authorization of various corporate actions, including the adoption of the Revised Relativity Holding Certificate of Formation and the Revised Relativity Holdings Operating Agreement, as disclosed in Exhibits B and C to the Plan Supplement, *see* Plan § III.E;

38 the funding of the Debtors' obligations under the Plan from various sources, including the Debtors' cash on hand, the proceeds of the New P&A/Ultimates Facility, and the proceeds of any equity raise, *see* Plan § III.F;

39 the appointment of the initial officers and directors of Reorganized Relativity Holdings as disclosed in Exhibit D to the Plan Supplement and assumption of the existing employment plans and employment agreements, as they may be modified, except as disclosed in Exhibit E to the Plan Supplement, *see* Plan § III.G;

40 the consummation of the New P&A/Ultimates Facility and execution of the New Exit Financing Documents, *see* Plan § III.H;

41 the retention by the Reorganized Debtors of the Causes of Action and the RKA Causes of Action, and the granting of the sole right to enforce and prosecute the Causes of Action in the name of the Reorganized Debtors to the Litigation Trust, *see* Plan § III.I;

42 the reinstatement of the Debtors' insurance policies, *see* Plan § 3III.J;

43 the entry into the CBA Assumption Agreements, *see* Plan § III.K;

44 the cancellation of the Debtors' existing debt instruments, securities and other documentation, including the Modified DIP Credit Agreement, *see* Plan § III.L; and

45 except as otherwise provided in the Plan or in any contract, instrument release or other agreement or document entered into or delivered in connection therewith, and consistent with the treatment provided for Claims and Interests under the Plan, the release of all mortgages, deeds of trust, liens or other security interests, including any liens granted as adequate protection against the property of the estate, *see* Plan § III.M.

46 Under section 1123(a)(6) of the Bankruptcy Code, the holders of new stock issued under a corporate debtor's plan of reorganization must have voting rights. 11 U.S.C. § 1123(a)(6) (requiring the inclusion in a corporate debtor's formation documents of a provision prohibiting the issuance of nonvoting equity securities and providing for an appropriate distribution of voting power among the classes of voting securities of the debtor). Here, the Limited Liability Company Agreement of Reorganized Relativity Holdings, as revised, will prohibit the issuance of non-voting equity securities and will not include any non-voting security classes. Accordingly, section 1123(a)(6) is satisfied.

47 Section 1123(a)(7) states that a plan shall "contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to such officer, director, or trustee." 11 U.S.C. § 1123(a)(7). Pursuant to Section III.G of the Plan and Exhibit D to the Plan Supplement, on the Effective Date, the New Board of Managers of Reorganized Relativity Holdings will consist of Nicholas and Kavanaugh, and, except as otherwise disclosed in the Plan Supplement or at the Confirmation Hearing, the

Debtors' current officers will continue in their existing roles. The appointment to or continuance in office of the officers and managers provided for under the Plan is consistent with the interests of creditors and interest holders and with public policy. No party in interest has objected to the manner of selection of the New Board of Managers or the officers of the Reorganized Debtors. Accordingly, the Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code. *In re Leslie Fay Companies, Inc.*, 207 B.R. 764, 787 (Bankr. S.D.N.Y. 1997) (absent evidence of any alleged wrongdoing, "the continued service of a debtor's management is proper"); *In re Toy & Sports Warehouse, Inc.*, 37 B.R. 141, 149-50 (Bankr. S.D.N.Y. 1984) (same).

(ii) Discretionary Provisions – Section 1123(b)

48 Section 1123(b) of the Bankruptcy Code identifies various discretionary provisions that *may* be included in a plan of reorganization. 11 U.S.C. § 1123(b). The Plan includes certain of these provisions. Specifically:

49 Section II of the Plan (i) impairs or leaves unimpaired, as the case may be, each Class of Claims and Interests, *see* 11 U.S.C. § 1123(b)(1); and (ii) modifies the rights of holders of certain secured and unsecured claims, and leaves unaffected the rights of certain holders of secured claims, *see* 11 U.S.C. § 1123(b)(5) (plan may "impair or leave unimpaired any class of claims, secured or unsecured, or of interests");

50 Section III.I of the Plan (i) provides for the retention of the Causes of Action by the Reorganized Debtors and the enforcement of such Causes of Action by the Litigation Trust; and (ii) provides for the retention and enforcement of the RKA Causes of Action by the Reorganized Debtors, *see* 11 U.S.C. § 1123(b)(3)(B) (play may provide for "the retention and enforcement of any claim or interest belonging to the debtor or the estate "by the debtor, by the trustee, or by a representative of the estate appointed for such purpose");

51 Section IV of the Plan provides for the assumption or rejection of the Debtors' executory contracts and unexpired leases that have not been previously assumed or rejected, *see* 11 U.S.C. § 1123(b)(2) (subject to section 365 of the Bankruptcy Code, a plan may provide for the "the assumption, rejection or assignment of any executory contract or unexpired lease of the debtor not previously rejected under such section"); and

52 Section X of the Plan provides for the release of certain potential claims against the Released Parties by the Debtors or Reorganized Debtors (the "**Debtor Releases**"), *see* 11 U.S.C. § 1123(b)(3)(A) (plan may provide for "the settlement or adjustment of any claim or interest belonging to the debtor or to the estate.").[6]

53 Each of the above provisions comports with one of the specific categories of discretionary provisions authorized in section 1123(b), and should be approved.

54 Moreover, the Debtor Releases are also consistent with the requirements for approval of a settlement agreement under Bankruptcy Rule 9019. In reviewing releases of claims by debtors, courts frequently employ the standards for approval of settlements under Bankruptcy Rule 9019. *See, e.g.*, *In re Bally Total Fitness*, 2007 WL 2779438, at *12 ("To the extent that a release or other provision in the Plan constitutes a compromise of a controversy, this Confirmation Order shall constitute an order under Bankruptcy Rule 9019 approving such compromise."); *In re Spiegel, Inc.*, No. 03-11540, 2005 WL 1278094, at *11 (Bankr. S.D.N.Y. May 25, 2005) (approving releases pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019(a)).

[6] "Released Parties" means (i) the Debtors; (ii) the Debtors' respective boards of managers and the members thereof each as of the Petition Date; (iii) the Creditors' Committee; (iv) the Manchester Parties; (v) the Cortland Lenders, (vi) the Buyer, and, (vii) Cortland (not individually, but solely in its separate capacities as collateral agent and administrative agent under the Existing DIP Facility and collateral agent and administrative agent under the TLA/TLB Facility), and each of the foregoing's Representatives to the extent permitted under applicable law. Plan § I.A.128.

55 Bankruptcy Rule 9019(a) provides: "[A]fter notice and a hearing, the court may approve a compromise or settlement." Fed R. Bankr. P. 9019. The legal standard for determining the propriety of a bankruptcy settlement is whether the settlement is in the "best interests of the estate." *In re Purofied Down Prods. Corp.*, 150 B.R. 519, 523 (S.D.N.Y. 1993) (citation omitted); *see also Plaza Equities LLC v. Pauker (In re Copperfield Invs., LLC)*, 401 B.R. 87, 91 (Bankr. E.D.N.Y. 2009). In addition, the Debtor Releases are subject to approval by the Court pursuant to section 1123(b)(3) of the Bankruptcy Code, which, as stated above, permits a debtor to include a settlement of the debtor's claims as a discretionary provision in its plan of reorganization.

56 Here, the proposed Debtor Releases represent valid and appropriate settlements of claims the Debtors or Reorganized Debtors may have against the Released Parties that arose on or prior to the Effective Date relating to the Debtors, the Reorganized Debtors, the Released Parties, the Reorganization Cases, the Plan or the Disclosure Statement pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019. The Debtor Releases constitute an integral aspect of the Debtors' arm's-length negotiations with their key creditor constituencies that resulted in the Plan. In reaching this result, each of the Released Parties have and will continue to contribute significantly in negotiating, formulating and ultimately effectuating the Plan, including, among other things, the following: (i) in the case of the Debtors and their respective boards of managers and the members thereof, devoting significant time and resources to negotiating the terms of the Plan, and agreeing to support the Plan, (ii) in the case of the Creditors' Committee, expending time and effort to represent the interests of the general unsecured creditors and providing input on the Plan and Disclosure Statement and negotiating certain key settlements, including with Manchester; (iii) in the case of Manchester, negotiating

and entering into the Modified DIP Credit Agreement and negotiating a settlement with the Committee; (iv) in the case of Cortland and the Cortland Lenders, entering into the Initial DIP Credit Agreement; and (v) in the case of the Buyer, negotiating the terms of the BidCo Note and the treatment of the Class B Claim. Absent the Debtor Releases, many of the Released Parties would have been unwilling to financially contribute to or otherwise participate in the Plan process, which would have reduced the enterprise value available for distribution to creditors and would have negatively impacted the Debtors' restructuring.

57 Therefore, the Debtor Releases are in the best interests of their estates and well within the Debtors' business judgment. The Debtors submit that even if they have viable claims against the Released Parties, the pursuit of such claims would be unlikely to benefit the estates and parties in interest, for the costs involved with pursuing and prosecuting such claims likely would outweigh any potential benefit to the Debtors, their estates and parties in interest. In addition, each of the Released Parties provided good and valuable consideration during these chapter 11 cases in exchange for the Debtor Releases. The Debtor Releases also include a carve-out for willful misconduct and gross negligence so that the Debtors are not releasing any Released Parties for claims involving such acts. Accordingly, the Debtors submit that the Debtor Releases are reasonable, represent a valid exercise of their business judgment and should be approved pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

(iii) Other Provisions – Section 1123(b)(6)

58 In addition to the specific discretionary provisions set forth in subsections (b)(1) through (b)(5) of section 1123, section 1123(b)(6) authorizes the inclusion of "any other appropriate provision not inconsistent with the applicable provisions of [the Bankruptcy Code]." 11 U.S.C. § 1123(a)(6). The Plan includes several such provisions, including, but not limited to, the following:

59 Section II.C.10 of the Plan provides for deemed substantive consolidation of the Debtors for Plan purposes only;

60 Section V of the Plan governs the timing and manner of making distributions under the Plan;

61 Section VI of the Plan establishes procedures for resolving Disputed Claims;

62 Section VII sets forth certain conditions precedent to consummation of the Plan;

63 Section IX of the Plan provides for the establishment and funding of the Litigation Trust and governs the distribution of Litigation Trust Assets;

64 Section X of the Plan (i) includes various provisions regarding the discharge, release and injunction against the pursuit of Claims and termination of Interests; and (ii) provides for the consensual release of certain potential claims by the holders of claims that voted to accept the Plan and other Releasing Parties against the Released Parties (the "**Third Party Release**"); and

65 Section XI of the Plan provides for the retention of jurisdiction by the Court over certain matters after the Effective Date.

66 Most of these additional provisions—with the exception of the provisions regarding deemed substantive consolidation and the Third Party Release—are routinely approved in plans of reorganization filed in large chapter 11 cases such as these and are not the subject of any Objections. However, the Production Loan Agent has raised certain Objections with respect to the provisions relating to the deemed substantive consolidation of the Debtors, *see* Plan § II.C.10, and with respect the Third Party Release, *see* Plan §10.F. The propriety of these provisions will therefore be addressed in a separate response to the Objection of the Production Loan Agent.

67 With respect to the Plan's provisions regarding the retention of post-confirmation jurisdiction, per the Debtors' agreement with the Vine Entities, the most recent Plan Amendments include provisions regarding the retention of post-confirmation jurisdiction over a transfer of the assets of the Vine Debtors to the Vine Entities. *See* Plan § X. Pursuant to *Penthouse Media Group v. Guccione (In re General Media)*, 335 B.R. 66, 73 (Bankr. S.D.N.Y. 2005), such matters "affect the interpretation, implementation, consummation, execution, or administration of the confirmed plan" and, therefore, are a "close nexus" to the Plan required to maintain post-confirmation jurisdiction of the Bankruptcy Court. *See also In re Kassover*, 448 B.R. 625, 632 (S.D.N.Y. 2011); *Ace Am. Ins. Co. v. DPH Holdings Corp. (In re DPH Holdings Corp.)*, 437 B.R. 88, 97 (S.D.N.Y. 2010); *Allstate Ins. Co. v. Ace Secs. Corp.*, No. 11 Civ. 1914 (LBS), 2011 WL 3628852, at *4 (S.D.N.Y. Aug. 17, 2011); *In re Metro-Goldwyn-Mayer Studios Inc.*, 459 B.R. 550, 556 (Bankr. S.D.N.Y. 2011). This amendment to the Plan's provisions regarding the retention of post-confirmation jurisdiction is therefore appropriate.

2. The Plan Proponents Have Complied With Applicable Provisions of the Bankruptcy Code as Required by Section 1129(a)(2)

68 While section 1129(a)(1) focuses on a plan's compliance with the Bankruptcy Code, section 1129(a)(2) focuses on the proponents' compliance with the Bankruptcy Code. *See* 11 U.S.C. § 1129(a)(2). The legislative history of this provision indicates that its principal purpose is to ensure that the proponent complies with the disclosure and solicitation requirements set forth in sections 1125 and 1126 of the Bankruptcy Code. *See* S. Rep. No. 95 989, at 126 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5912 ("Paragraph (2) [of section 1129(a)] requires that the proponent of the plan comply with the applicable provisions of chapter 11, such as section 1125 regarding disclosure."); H.R. Rep. No. 95-595, at 412 (1977), *reprinted in* 1978 U.S.C.C.A.N. 5963, 6368; *see also In re PWS Holding Corp.*, 228 F.3d 224, 248 (3d Cir.

2000) ("[Section] 1129(a)(2) [of the Bankruptcy Code] requires that the plan proponent comply with the adequate disclosure requirements of § 1125"). As discussed below, the Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, including the provisions of sections 1125 and 1126 of the Bankruptcy Code, regarding disclosure and solicitation of the Plan.

(a) The Plan Proponents Have Complied With Section 1125

69 Section 1125 of the Bankruptcy Code prohibits the solicitation of acceptances or rejections of a plan of reorganization from holders of claims or interests "unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved . . . by the court as containing adequate information." 11 U.S.C. § 1125(b). In these cases, after a hearing held on December 16, 2015, the Court approved the Disclosure Statement by an order entered on December 17, 2015 (Docket No. 1140) (the "**Disclosure Statement Order**"). The Disclosure Statement Order specifically found, among other things, that the Disclosure Statement contained "adequate information" within the meaning of section 1125 of the Bankruptcy Code.

70 In addition, the Court considered and, in the Disclosure Statement Order, approved, among other things: (a) all materials to be transmitted to creditors entitled to vote on the Plan (collectively, the "Solicitation Materials"), including (i) the Plan and the Disclosure Statement (together with certain exhibits thereto), (ii) a notice of the Confirmation Hearing (the "Confirmation Hearing Notice") and related matters and (iii) an appropriate Ballot; (b) certain materials to be transmitted to creditors not entitled to vote on the Plan (i.e., the Confirmation Hearing Notice and a notice of non-voting status); (c) the procedures for the solicitation and tabulation of votes to accept or reject the Plan, including approval of (i) the deadline for creditors' submission of Ballots, (ii) the rules for tabulating votes to accept or reject the Plan and

(iii) the proposed record date for Plan voting; and (d) the proposed date for the Confirmation Hearing and certain related notice procedures. Thereafter, the Debtors (through the Voting Agent) transmitted the approved Solicitation Materials in accordance with the instructions of the Court in the Disclosure Statement Order. The Service Affidavits demonstrate that (a) the Solicitation Materials were served in accordance with the requirements of the Disclosure Statement Order and (b) the Debtors did not solicit acceptance of the Plan from any creditor or equity security holder prior to the transmission of the approved Disclosure Statement.

(b) The Plan Proponents Have Complied With Section 1126

71 Section 1126 of the Bankruptcy Code specifies the requirements for acceptance of a plan of reorganization. Pursuant to section 1126 of the Bankruptcy Code, only holders of allowed claims and allowed equity interests in impaired classes of claims or equity interests that will receive or retain property under a plan on account of such claims or equity interests may vote to accept or reject such plan.

72 As set forth in the Disclosure Statement and the Voting Declaration, in accordance with section 1126 of the Bankruptcy Code, the Debtors solicited acceptances from the Holders of all Allowed Claims in each Class of Impaired Claims entitled to receive distributions under the Plan. Claims in Classes B, C, D, E, G, and J (collectively, the "**Voting Classes**") are designated as Impaired under the Plan, and Holders of such Claims are entitled to receive distributions on account of such Claims against the applicable Debtors under the Plan. Accordingly, pursuant to section 1126(a) of the Bankruptcy Code, Holders of Claims in those Classes were entitled to vote to accept or reject the Plan. Holders of Claims or Interests in Classes A, F, H and I are designated under the Plan as Unimpaired. Accordingly, pursuant to section 1126(f) of the Bankruptcy Code, Holders of Claims or Interests in those Classes are conclusively presumed to have accepted the Plan.

73 Votes to accept or reject the Plan have not been solicited from the Holders of Claims or Interests in Classes K and L under the Plan because such Holders are not entitled to receive or retain any property under the Plan on account of such Claims and/or Interests unless and until Holders of Allowed Claims in Classes senior in priority to them have been paid in full, plus interest, which the Plan does not contemplate. Thus, Holders of Claims in Classes K and L have been deemed to reject the Plan, consistent with section 1126(g) of the Bankruptcy Code, and are not entitled to vote to accept or reject the Plan.

74 Based upon the foregoing, the Debtors' solicitation of votes with respect to the Plan was undertaken in conformity with sections 1125 and 1126 of the Bankruptcy Code and the Disclosure Statement Order, and the Debtors acted in good faith at all times with respect to the solicitation of votes on the Plan. The Debtors, therefore, have complied with applicable provisions of the Bankruptcy Code and have satisfied the requirements of section 1129(a)(2) of the Bankruptcy Code.

3. The Plan Has Been Proposed in Good Faith as Required by Section 1129(a)(3)

75 Section 1129(a)(3) of the Bankruptcy Code requires that a plan of reorganization be "proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1129(a)(3). Although the Bankruptcy Code does not define "good faith" as that term is used in this section, courts have held that the good faith standard requires a showing that "the plan was proposed with 'honesty and good intentions'" and with a basis for expecting that a reorganization consistent with the Bankruptcy Code's objectives can be effectuated. *In re Koelbl*, 751 F.2d 137, 139 (2d Cir. 1984) (noting that plan provisions may not contravene any law, and must be proposed with "a basis for expecting that a reorganization can be effected'") (citations omitted); *In re Johns-Manville Corp.*, 843 F.2d at 649; *In re Texaco, Inc.*, 84 B.R. 893, 907 (Bankr. S.D.N.Y. 1988

("[A] plan is considered proposed in good faith if there is a likelihood that the plan will achieve a result consistent with the standards associated with the Code.") (quoting *Hanson v. First Bank of S.D.*, 828 F.2d 1310, 1315 (8th Cir. 1987)).

76 The Plan accomplishes the goals promoted by section 1129(a)(3) of the Bankruptcy Code by enabling the Reorganized Debtors to continue to operate as viable going concern businesses through means consistent with the objectives and purposes of the Bankruptcy Code and not otherwise forbidden by law. The primary goal of chapter 11 is to promote the restructuring of a debtor's debt obligations and other liabilities to enable the continued existence of a corporate entity that provides, among other things, jobs to its employees, a tax base to the communities in which it operates, goods and services to its customers and the other economic benefits to vendors, suppliers and other parties engaged in commerce with the debtor. Congress thus has recognized that the continuation of businesses as viable entities benefits the national economy. *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 528 (1984) ("The fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendant loss of jobs and possible misuse of economic resources."); *Drexel*, 138 B.R. at 760 (same; quoting *Bildisco*).

77 Good faith for purposes of section 1129(a)(3) of the Bankruptcy Code also may be found where, as here, the plan is supported by key creditor constituencies or is the result of extensive arm's-length negotiations with creditors. *See In re Leslie Fay Cos.*, 207 B.R. 764, 781 (Bankr. S.D.N.Y. 1997) ("The fact that the plan is proposed by the committee as well as the debtors is strong evidence that the plan is proposed in good faith.") (citation omitted); *Eagle-Picher Indus.*, 203 B.R. at 274 (finding that plan of reorganization was proposed in good faith when, among other things, it was based on extensive arm's length negotiations among plan

proponents and other parties in interest). Here, the Plan Proponents and the Committee have engaged in an ongoing dialogue regarding the Plan's provisions, as a result of which the Committee fully supports the Plan and encouraged its constituents to vote to accept the Plan. Moreover, as fully explained in the Disclosure Statement, the Plan is the result of extensive arms-length negotiations among key parties in interest including but not limited to the Plan Proponents, Cortland, Manchester RKA, and Macquarie.

78 Each of the above factors demonstrates that the Plan was proposed in good faith and not by any unlawful means, and none of the Objecting Parties has suggested otherwise. As such, section 1129(a)(3) is satisfied.

4. All Payments to Be Made by the Debtors in Connection With These Cases Are Subject to the Approval of the Court as Required by Section 1129(a)(4)

79 Section 1129(a)(4) of the Bankruptcy Code requires that all payments made by the debtor, the plan proponent or by a person issuing securities or acquiring property under a plan for services or for costs and expenses incurred in connection with the case or the plan, be approved by the Court as reasonable. 11 U.S.C. § 1129(a)(4).

80 Pursuant to the Court's Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (Docket No. 478) this Court has authorized and approved on an interim basis the payment of certain fees and expenses of Professionals retained in these Chapter 11 Cases. All such fees and expenses, as well as all other accrued fees and expenses of Professionals through the Effective Date, remain subject to final review for reasonableness by the Court. Section II.A.1(d) of the Plan makes all payments for Professionals' Fee Claims for services rendered prior to the Effective Date subject to Court approval under the standards established by the Bankruptcy Code, including the requirements of sections 327, 328, 330, 331, 503(b) and 1103 of the Bankruptcy Code, as applicable, by requiring Professionals to

file final fee applications with the Court. In addition, Section XI.2 of the Plan provides that the Court will retain jurisdiction after the Effective Date to hear and determine all applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Effective Date.

81 The foregoing procedures for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtors for the Professionals retained in these chapter 11 cases satisfy the objectives of section 1129(a)(4) of the Bankruptcy Code. *Lisanti v. Lubetkin (In re Lisanti Foods, Inc.)*, 329 B.R. 491, 503, 241 Fed. Appx. 3rd Cir. N.J. 2007 (Affirmed) (D.N.J. 2005) ("Pursuant to § 1129(a)(4), a Plan should not be confirmed unless fees and expenses related to the Plan have been approved, or are subject to the approval, of the Bankruptcy Court"); *In re Crdentia Corp.*, No. 10-10926 (BLS), 2010 WL 3313383, at *8 (Bankr. D. Del. May 26, 2010) (holding that plan complied with Section 1129(a)(4) where all final fees and expenses payable to professionals remained subject to final review by the bankruptcy court); *In re Stations Holdings Co.*, No. 02-10882, 2002 WL 31947022, *3 (Bankr. D. Del. Sep. 30, 2002) (stating that section 1129(a)(4) is satisfied if fees, costs, and expenses are subject to final court approval).

82 Accordingly, the Debtors believe that all payments to be made in connection with these cases are appropriate and should be authorized.

5. The Debtors Will Disclose All Required Information Regarding Postconfirmation Management and Insiders as Required by Section 1129(a)(5)

83 Section 1129(a)(5) of the Bankruptcy Code provides that a plan of reorganization may be confirmed only if the proponent discloses the identity and affiliations of the proposed officers and directors of the reorganized debtor, the identity of any insider to be employed or retained by the reorganized debtor and the nature of any compensation proposed to be paid to such insider. 11 U.S.C. § 1129(a)(5). In addition, under section 1129(a)(5)(A)(ii) of the

Bankruptcy Code, the appointment or continuation in office of such officers and directors must be consistent with the interests of creditors, equity security holders and public policy. *See id*. § 1129(a)(5).

84 The Debtors have previously disclosed in the Plan Supplement that the New Board of Managers of Reorganized Relativity Holdings will consist of Nicholas and Kavanaugh. Plan Supplement, Ex. D. The directors for the other boards of managers/directors of the direct and indirect subsidiaries of Reorganized Relativity Holdings will be identified and selected by the New Board of Managers. *See* Plan, § III.G.2. In addition, certain of the existing officers of Relativity Holdings LLC (who are "insiders" as such term is defined in section 101(31) of the Bankruptcy Code) will continue to serve as officers of Reorganized Relativity Holdings (the "**Retained Officers**"), including Carol Genis, Managing Director of RML, and David Shane, Chief Communications Officer and Executive Vice President of RML. The identities of any other Retained Officers, and the nature of their compensation, will be disclosed prior to the entry of the Confirmation Order.

85 Here, the appointment of Nicholas and Kavanaugh to the New Board of Managers, and the continuance in office of the Retained Officers as provided for under the Plan or disclosed herein is consistent with the interests of creditors and interest holders and with public policy. Existing management is familiar with the opportunities and challenges that the Reorganized Debtors will encounter in implementing the Plan, and is committed to ensuring its success. Moreover, none of the Objecting Parties has objected to the retention of existing management, and it is therefore entirely proper (and highly beneficial) for the Retained Officers to remain at their posts. *In re Leslie Fay Companies, Inc.*, 207 B.R. 764, 787 (Bankr. S.D.N.Y. 1997) (absent evidence of any alleged wrongdoing, "the continued service of a debtor's

management is proper"); *In re Toy & Sports Warehouse, Inc.*, 37 B.R. 141, 149-50 (Bankr. S.D.N.Y. 1984) (same).

86 Based upon the foregoing, the Debtors have satisfied the requirements of section 1129(a)(5) of the Bankruptcy Code.

6. The Plan Is in the Best Interests of Creditors as Required by Section 1129(a)(7)

87 Section 1129(a)(7) of the Bankruptcy Code requires that, with respect to each impaired class of claims or interests under a plan of reorganization, each holder of a claim or interest (1) has accepted the plan or (2) will receive or retain property of a value, as of the effective date of the plan, not less than what such holder would receive or retain if the debtor were liquidated under chapter 7 of the Bankruptcy Code on that date. *See* 11 U.S.C. § 1129(a)(7); *United States v. Reorganized CF & I Fabricators of Utah, Inc.*, 518 U.S. 213, 228 (1996); *In re Leslie Fay Companies, Inc.*, 207 B.R. 764, 787 (Bankr. S.D.N.Y. 1997). Referred to as the "best interests of creditors" test, this requirement is satisfied where the estimated recoveries for a debtor's stakeholders in a hypothetical chapter 7 liquidation are less than or equal to the estimated recoveries for a holder of an impaired claim or interest under the debtor's plan of reorganization that rejects the plan. *Id.* The test focuses on individual dissenting creditors rather than classes of claims. *See Bank of Am. Nat'l Trust & Savs. Ass'n v. 203 N. LaSalle St. P'Ship*, 526 U.S. 434, 441 n.13 (1999) (stating that the "'best interests' test applies to individual creditors holding impaired claims, even if the class as a whole votes to accept the plan").

88 The proponent of the plan bears the burden of showing that the plan complies with section 1129(a)(7). *In re Adelphia Commc'ns Corp.*, 361 B.R. 337, 364 (S.D.N.Y. 2007); *see also In re GSC, Inc.*, 453 B.R. 132, 178, n.66 (Bankr. S.D.N.Y. 2011) (citing Adelphia)

(same). The bankruptcy court must find by a preponderance of the evidence that the plan is in the best interests of the creditors. *Id.* at 365. "The burden imposed on a plan proponent requires evidence, not assumptions . . . ." *In re Ne. Dairy Co-op. Fed'n, Inc.*, 73 B.R. 239, 253 (Bankr. N.D.N.Y. 1987) (holding the litigation costs would deplete the debtor's assets such that creditors will receive more from plan than liquidation).

89 Here, it is self evident that creditors will fare better with the Debtors continuing their businesses and reaping the potential financial rewards of releasing the films currently in their production pipeline rather than being liquidated piecemeal at steeply discounted values. Nonetheless, the Exhibit E to the Disclosure Statement provides a liquidation analysis (the "**Liquidation Analysis**") showing that each class of claims is better off under the Plan than they would be under a hypothetical chapter 7 liquidation.

90 The Liquidation analysis was prepared based upon an assumed value for the Debtors' businesses consistent with the $250 million credit bid that was received at auction. This is consistent with valuation methods used by courts in similar circumstances. *See, e.g.*, *In re Philadelphia Newspapers, LLC*, 599 F.3d 298, 332 (3d Cir. 2010), *as amended* (May 7, 2010) ("Indeed, while many of the valuation mechanisms (such as judicial valuation or market auction) may theoretically result in a perfect valuation, Congress has provided the credit bid mechanism as insurance for secured creditors to protect against an undervaluation of assets sold."); *see also In re Ashley River Consulting, LLC*, 2015 Bankr. LEXIS 3819, 31(Bankr. S.D.N.Y. Nov. 6, 2015) (finding that robust marketing process "was the best means for determining whether [a marina owned by the debtor] had a fair market value in excess of $18 million, the amount needed for any creditors (other than [the secured party]) or equity to receive anything from a sale."); *In re Crowthers McCall Pattern, Inc.*, 120 B.R. 279, 297-298 (Bankr. S.D.N.Y. 1990) ("More

persuasive than the absence of an appraisal in this case is that this Debtor has been shopped extensively.")

91 As shown in the Liquidation Analysis, because the $235 million of senior secured TLA/TLB debt remaining after the credit bid for Relativity's unscripted television assets, plus DIP financing in the approximate amount of $35 million, was jointly and severally guaranteed by substantially all of the Debtors, and the obligations of each of those Debtors are secured by all of the assets of those Debtors, in a hypothetical chapter 7 liquidation there would not be any residual value available in the vast majority of Debtor entities. Accordingly, in a liquidation, there would be no recovery for unsecured creditors of any individual debtor other than the small handful of Debtor entities that did not pledge their assets to secure the DIP facility.[7] Therefore, the Liquidation Analysis does not allocate remaining asset value among the multiple Debtor entities. *See In re Jennifer Convertibles, Inc.*, 447 B.R. 713 (Bankr. S.D.N.Y. 2011) (with consolidated debtors, court need not and should not conduct a separate liquidation analysis for each debtor in deciding whether "best interests of creditors" test is satisfied, as cost of effort of doing so would defeat one of the purposes of consolidation).

92 Moreover, as explained in the notes to the Liquidation Analysis, there is an additional $137 million of Elliott "secured" debt for which the Debtors are responsible that would not be covered because there would be no residual value in the collateral.

93 Notably, none of the Objecting Parties other than the Production Loan Agent has taken issue with the Liquidation Analysis, or suggested that they would fare better in a Chapter 7

[7] Debtors Yuma, Inc., J & J Project LLC, Relativity Fashion, LLC, the P&A Borrowers, RML Acquisitions VI, LLC, and Left Behind Acquisitions, LLC did not pledge their assets to secure the DIP facility. Instead, the equity of these Debtor entities was pledged by their respective equity owners. As such, there could theoretically be some residual value for unsecured creditors in those entities, but the Debtors do not believe that any such residual value exists.

liquidation. The points raised in the Production Loan Agent's Objection will be addressed in a separate filing.[8] As such, and for the reasons discussed above and in the Liquidation Analysis, the "best interests" test under section 1129(a)(7) is satisfied.

7. The Plan Has Been Accepted by the Requisite Classes of Creditors and Interest Holders as Required by Section 1129(a)(8)

94 Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests under a plan has either accepted the plan or is not impaired under the plan. 11 U.S.C. § 1129(a)(8). All Unimpaired Classes of Claims and Interests under the Plan (*i.e.*, Classes A, F, H, and I) are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code and, thus, have not voted on the Plan.[9] As set forth in the Voting Declaration, Classes B (TLA/TLB Secured Claims), C (Pre-Release P&A Secured Claims), D (Post-Release P&A Secured Claims), G (Secured Guilds Claims), and J (General Unsecured Claims) have voted to accept the Plan. Accordingly, with respect to these Classes of Claims and Interests, the requirements of section 1129(a)(8) of the Bankruptcy Code have been satisfied.

95 However, as set forth in the Voting Declaration, Class E (Production Loan Secured Claims) has voted to reject the Plan. In addition, because the Debtors do not anticipate that Holders of Impaired Claims and/or Interests in Classes K and L (collectively, the "**Deemed Rejecting Classes**") will receive any distribution pursuant to the Plan, such Holders have been deemed to reject the Plan, consistent with section 1126(g) of the Bankruptcy Code. *See* 11 U.S.C. § 1126(g). Accordingly, the requirements of section 1129(a)(8) of the Bankruptcy Code are not met with respect to these Classes (the "**Rejecting Classes**").

[8] The Production Loan Agent contends, among other things, that a separate Liquidation Analysis must be performed for each Debtor.

[9] The Ultimates Agent contends that Claims in Class F (Ultimates Secured Claims) are impaired and should be entitled to vote on the Plan. This issue is separately addressed in section II.B.

96 Even where certain impaired classes of claims or interests do not accept a plan, and therefore the requirements of section 1129(a)(8) of the Bankruptcy Code are not satisfied, the plan nevertheless may be confirmed over such nonacceptance pursuant to the "cramdown" provisions of section 1129(b)(1) of the Bankruptcy Code. As described in Part I.B, below, the Debtors have met the cramdown requirements under section 1129(b) of the Bankruptcy Code necessary to obtain Confirmation of the Plan, notwithstanding rejection of the Plan by the Rejecting Classes.

8. The Plan Provides for the Payment in Full of All Allowed Priority Claims as Required by Section 1129(a)(9)

97 Section 1129(a)(9) of the Bankruptcy Code requires that certain priority claims be paid in full on the effective date of a plan and that the holders of certain other priority claims receive deferred cash payments, except to the extent that the holder of such a priority claim agrees to different treatment. *See* 11 U.S.C. § 1129(a)(9). In particular:

98 Section 1129(a)(9)(A) of the Bankruptcy Code requires that holders of claims of a kind specified in section 507(a)(2) of the Bankruptcy Code (*i.e.*, administrative claims allowed under section 503(b) of the Bankruptcy Code) must receive cash equal to the allowed amount of such claims on the effective date of the plan;

99 Section 1129(a)(9)(B) of the Bankruptcy Code requires that each holder of a claim of a kind specified in sections 507(a)(1) and sections 507(a)(4) through (7) of the Bankruptcy Code—generally, in the context of corporate chapter 11 cases, wage, employee benefit and deposit claims entitled to priority—must receive (1) if the class has accepted the plan, deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (2) if the class has not accepted the plan, cash equal to the allowed amount of such claim on the effective date of the plan;

- Section 1129(a)(9)(C) of the Bankruptcy Code provides that the holder of a claim of a kind specified in section 507(a)(8) of the Bankruptcy Code (*i.e.*, priority tax claims) must receive regular installment payments in cash: (i) of a total value, as of the effective date of the plan, equal to the allowed amount of the claim; (ii) over a period ending not later than five years after the date the order for relief was entered in the chapter 11 case; and (iii) in a manner not less favorable than the most favored non-priority unsecured claim provided for by the plan (other than cash payments made to a convenience class under section 1122(b) of the Bankruptcy Code); and
- Section 1129(a)(9)(D) of the Bankruptcy Code provides that, with respect to a secured claim that would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8) of the Bankruptcy Code (but for the claim's secured status), the holder of such a claim will receive cash payments in the same manner and over the same period as prescribed in section 1129(a)(9)(C) of the Bankruptcy Code.

The Plan satisfies each of the above requirements of section 1129(a)(9) of the Bankruptcy Code.

100 *First*, with respect to claims addressed by section 1129(a)(9)(A) and (B) of the Bankruptcy Code:

101 Subject to certain bar date provisions and except as otherwise agreed by the Holder of an Administrative Claim and the applicable Reorganized Debtor, or unless an order of the Bankruptcy Court provides otherwise, the Plan provides that each Holder of an Allowed Administrative Claim (other than a Professional's' Fee Claim and a Plan Co-Proponent Fee/Expense Claim) will receive Cash equal to the amount of such Allowed Administrative Claim on either (i) the latest to occur of (A) the Effective Date (or as soon as thereafter as practicable), (B) the date such Claim becomes an Allowed Administrative Claim and (C) such other date as may be agreed upon by the Reorganized Debtors and the Holder of such Claim or (ii) on such other date as the Court may order, *see* Plan, § II.A.1.a; and

- Administrative Claims based on liabilities incurred by a Debtor in the ordinary course of its business—including Administrative Claims arising from or with respect to the sale of goods or provision of services on or after the Petition Date, Administrative Claims of governmental units for Taxes (including Tax audit Claims related to Tax years or portions thereof ending after the Petition Date), Administrative Claims arising under Executory Contracts and Unexpired Leases, Administrative Claims of the Cortland Lenders and Cortland arising under the TLA/TLB Facility, and Administrative Claims in connection with Union Entity collective bargaining agreements—will be paid by the applicable Reorganized Debtor without further action by the Holders of such Administrative Claims or further approval by the Bankruptcy

Court (i) pursuant to the terms and conditions of the particular transaction giving rise to those Administrative Claims and (ii) in the case of Administrative Claims arising from Union Entity collective bargaining agreements, in accordance with the Guild Payroll Protocols, and, in the case of the Administrative Claims of the Cortland Lenders and Cortland, in accordance with the terms of the Amended and Restated Final Order at Dkt. No. 931, *see* Plan § II.A.l.c.

102 *Second*, with respect to Priority Tax Claims addressed by section 1129(a)(9)(C) of the Bankruptcy Code, the Plan provides that, unless otherwise agreed by the Holder of a Priority Tax Claim and the Debtors (with the consent of the Requisite Supporting Parties, such consent not to be unreasonably withheld, conditioned or delayed), each Holder of an Allowed Priority Tax Claim will receive, at the option of the Debtors, in full satisfaction of its Priority Tax Claim that is due and payable on or before the Effective Date, on account of and in full and complete settlement, release and discharge of such Claim, (i) Cash in an amount equal to the amount of such Allowed Priority Tax Claim or (ii) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. Such treatment of Priority Tax Claims is as favorable as the treatment accorded to the most favored non-priority unsecured Claim under the Plan —*i.e.*, Class J (General Unsecured Claims)—which is estimated to receive an aggregate recovery of 4%-11.5% on account of the estimated allowed amount of such Claims on the Effective Date.

103 Accordingly, in light of the foregoing, the Plan satisfies the requirements set forth in section 1129(a)(9) of the Bankruptcy Code.

9. The Plan Has Been Accepted by At Least One Impaired, Non-Insider Class as Required by Section 1129(a)(10)

104 Section 1129(a)(10) of the Bankruptcy Code requires that the Plan be accepted by at least one class of claims that is impaired under the Plan, determined without including the acceptance of the plan by any insider. 11 U.S.C. § 1129(a)(10).

105 Courts in the Southern District of New York have held that in jointly administered Chapter 11 cases, section 1129(a)(10) is evaluated in on "per-plan" basis and not on a "per-debtor" basis. *In re Charter Commc'ns*, 419 B.R. 221, 266 (Bankr. S.D.N.Y. 2009); *see also In re SGPA, Inc.*, No. 1-01-02609, 2001 at *21-2 Bankr. LEXIS 2291 (Bankr. M.D. Pa. Sept. 28, 2001) ("in a joint plan of reorganization it is not necessary to have an impaired class of creditors of each Debtor vote to accept the Plan . . . [w]hether these Debtors were substantively consolidated or jointly administered would have no adverse [effect] on the [objecting creditors]."). This is particularly true for plans, such as this one, involving substantive consolidation of multiple debtor estates. *See, e.g.*, *In re Enron*, 2004 Bankr. LEXIS 2549, *234-35 (Bankr. S.D.N.Y. July 15, 2004) (confirming a joint chapter 11 plan for 177 debtors despite the lack of an impaired accepting class for each debtor based upon both "the plain statutory meaning" of section 1129(a)(10) and "the substantive consolidation component of the global compromise").

106 As set forth above and in the Voting Declaration, the Debtors have satisfied this requirement because Impaired Classes B, C, D, G, and J have voted to accept the Plan, after excluding the votes of any insiders. Thus, the Plan complies with section 1129(a)(10) of the Bankruptcy Code.

10. The Plan Is Feasible as Required by Section 1129(a)(11)

107 Section 1129(a)(11) requires the court to determine that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." 11 U.S.C. § 1129(a)(11).

108 This "feasibility" requirement has been interpreted by Courts in this District as requiring a determination of whether the plan "has a reasonable likelihood of success." *See In re*

Adelphia Bus. Solutions, Inc., 341 B.R. 415, 421–22 (S.D.N.Y. 2003) (‘“[T]he feasibility standard is whether the plan offers a reasonable assurance of success.’”) (citing *Kane v. Johns-Manville*, 843 F.2d at 649; *In re Texaco Inc.*, 84 B.R. 893, 910 (Bankr. S.D.N.Y. 1988) (plan is feasible if there is a “reasonable assurance of commercial viability”). In making this determination, the Court need not find that success is guaranteed, or even highly probable. *See, e.g.*, *Adelphia Bus. Solutions.*, 341 B.R. at 421 (“Nor need success be guaranteed.”); *In re Prudential Energy Co.*, 58 B.R. 857, 862 (Bankr. S.D.N.Y. 1986) (“Guaranteed success in the stiff winds of commerce without the protection of the Code is not the standard under § 1129(a)(11).”). Rather, the Court should “scrutinize carefully the plan to determine whether it offers a reasonable prospect of success and is workable.” 7 COLLIER ON BANKRUPTCY ¶ 1129.03[11] (Henry J. Sommer & Alan N. Resnick eds. 16th ed. rev. 2012); *see also In re Leslie Fay Cos.*, 207 B.R. 764, 788 (Bankr. S.D.N.Y. 1997) (same); *In re Woodmere Investors L.P.*, 178 B.R. 346, 361 (Bankr. S.D.N.Y. 1995) (same).

109 Courts in this District have identified the following factors as pertinent to the determination of plan feasibility under section 1129(a)(11):

- the prospective earnings of the business or its earning power;
- the soundness and adequacy of the capital structure and working capital for the business which the debtor will engage in post-confirmation;
- the prospective availability of credit;
- whether the debtor will have the ability to meet its requirements for capital expenditures;
- economic and market conditions;
- the ability of management, and the likelihood that the same management will continue; and
- any other related factors which would materially reflect on the company’s ability to operate successfully and implement its plan.

In re Texaco Inc., 84 B.R. 893, 910 (Bankr. S.D.N.Y. 1988) (citing *In re Prudential Energy Co.*, 58 B.R. at 862, 863 (Bankr. S.D.N.Y. 1986)).

110 With respect to the first factor, prospective earnings, the Debtors currently have four completed but as-yet unreleased films, the value of which can be fully realized only through

implementation of the Plan. In addition, the Debtors recently announced the acquisition of Trigger Street Productions ("**Trigger Street**"), the entertainment production company owned and operated by Kevin Spacey and Dana Brunetti. As part of the transaction, shortly after the Plan becomes effective, Mr. Spacey will become Chairman of Relativity Studios and Mr. Brunetti will become President of Relativity Studios, and together they will oversee all creative content and film production for the company. The Debtors anticipate significantly enhanced earning potential for their future films produced under the stewardship of these industry veterans.

111 As to the second factor, adequacy of the Debtors' capital structure and working capital, the Court must determine whether the company's capital structure is sustainable, and whether its financial model and revenue projections are reasonable. *See, e.g.*, *In re Jennifer Convertibles, Inc.*, 447 B.R. 713, 65 Collier Bankr. Cas. 2d (MB) 259 (Bankr. S.D.N.Y. 2011) (feasibility requirement was satisfied where plan of chapter 11 debtor worth between $492-692 million would result in elimination of over $500 million in debt from debtor's balance sheet, and where debtor's financial projections "appeared reasonable based on historic data, debtors' operations, and overall market and economic conditions"); *In re Journal Register Co.*, 407 B.R. 520, 539 (Bankr. S.D.N.Y. 2009) (feasibility requirement was satisfied where the debtors provided "credible financial projections and testimony regarding the post-confirmation availability of funds to maintain their operations and obligations.").

112 Here, there can be no dispute that the Debtors will emerge with a vastly improved capital structure, as the Plan delevers the company's balance sheet by approximately $500 million and calls for the Debtors to obtain new credit facilities and equity contributions. The Debtors will also demonstrate at trial that the financial model on which the Plan is based—which

was initially attached as Exhibit B to the Disclosure—is reasonable. The model was prepared by the Debtors in consultation with their financial advisors, Houlihan Lokey ("**Houlihan**"), and has been significantly revised and updated to reflect the Trigger Street transaction and other developments since the filing of the Disclosure Statement.

113 The third and fourth factors—the prospective availability of credit, and whether the debtor will have the ability to meet its requirements for capital expenditures—relate to the debtor's ability to attract the necessary debt and equity financing to support its future operations. Importantly, it is not necessary to show that a debtor exiting chapter 11 under a confirmed plan has obtained committed debt or equity financing sufficient to meet *all* of the debtor's projected needs over the life of the plan, at least not where there is reason to believe that the debtor will be able to attract additional financing. For example, in *In re DBSD North America, Inc.*, the court upheld the debtor's plan as feasible where the debtor submitted undisputed evidence that it had obtained working capital for the following two years, and gave the court credible assurances that it could attract sufficient additional capital thereafter. 419 B.R. 179, 203 (Bankr. S.D.N.Y. 2009) (finding, based in part on expert testimony regarding the quality of the debtor's prospects in the capital markets/private equity sector and the market outlook at large, that the debtor's view that it would be able to attract a strategic investor or partner within two years of plan confirmation was "very reasonable"), *aff'd*, No. 09 CIV. 10156 (LAK), 2010 WL 1223109 (S.D.N.Y. Mar. 24, 2010) *aff'd in part, rev'd in part on other grounds*, 627 F.3d 496 (2d Cir. 2010); *see also In re Leslie Fay Companies, Inc.*, 207 B.R. 764, 791 (Bankr. S.D.N.Y. 1997) (finding feasibility requirement was met in partial reliance on testimony of debtor's expert that "if the reorganized debtors meet their reasonable projections, they will be strongly postured to obtain long term financing within two to three years of their emergence from chapter 11.")

114 Similarly here, there is ample reason to expect that the Debtors will be able to obtain additional equity and debt financing both in the short term following their emergence from chapter 11 and over the next several years.

115 The fifth factor, economic and market conditions, also supports the feasibility of the Plan, as will be demonstrated at the Confirmation Hearing.

116 The sixth factor that courts have identified as relevant to plan feasibility is "the ability of management, and the likelihood that the same management will continue." *In re Texaco Inc.*, 84 B.R. at 910; *In re Prudential Energy Co.*, 58 B.R. at 863. This factor, too, supports the conclusion that the Plan is feasible. In addition to their collective wealth of experience both within and outside of the film industry, Kavanaugh and Nicholas are fully incentivized to maximize the Debtors' future profitability due to their ownership stake in the Reorganized Debtors. *In re Piece Goods Shops Co., L.P.*, 188 B.R. 778, 799 (Bankr. M.D.N.C. 1995) (finding that reorganized debtor's stock option program incentivized management to "increase the value of the [reorganized companies'] Common Stock beyond its worth at the effective date of the Plan, and that "[t]hese provisions relating to management support feasibility"). Feasibility is also demonstrated by the fact that, as noted above, the Reorganized Debtors' senior creative and management team will include Mr. Spacey and Mr. Brunetti, both of whom have well established reputations and successful track records in the film industry.

117 In conclusion, each of the above factors demonstrates that the Plan is feasible and should be confirmed.

11. The Plan Provides for the Payment of Statutory Fees as Required by Section 1129(a)(12)

118 Section 1129(a)(12) of the Bankruptcy Code requires that, as a condition precedent to the confirmation of a plan of reorganization, "[a]ll fees payable under section 1930

of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan." 11 U.S.C. § 1129(a)(12). The Plan complies with section 1129(a)(12) by providing that on a prospective basis all fees payable pursuant to 28 U.S.C. § 1930 after the Effective Date will be paid by the applicable Reorganized Debtor in accordance therewith until the earlier of the conversion or dismissal of the applicable Chapter 11 Case under section 1112 of the Bankruptcy Code or the closing of the applicable Chapter 11 Case pursuant to section 350(a) of the Bankruptcy Code.

12. The Plan Provides for the Continuation of Retiree Benefits as Required by Section 1129(a)(13)

119 Section 1129(a)(13) of the Bankruptcy Code requires that a plan of reorganization provide for the continuation, after the plan's effective date, of all "retiree benefits" (as such term is defined by section 1114(a) of the Bankruptcy Code) at the level established by agreement or by court order pursuant to subsections (e)(1)(B) or (g) of section 1114 of the Bankruptcy Code at any time prior to confirmation of the plan, for the duration of the period that the debtor has obligated itself to provide such benefits. 11 U.S.C. § 1129(a)(13). The Plan provides that as of the Effective Date, the Reorganized Debtors will have the authority to (i) maintain, reinstate, amend or revise existing retirement and other agreements with its active and retired directors, officers and employees, subject to the terms and conditions of any such agreement and applicable non-bankruptcy law, and (ii) enter into new employment, retirement and other agreements for active and retired employees. Therefore, to the extent it may be deemed applicable, the Plan complies with section 1129(a)(13) of the Bankruptcy Code.

B. The Plan Satisfies the Requirements of Section 1129(b) With Respect to Cramdown

120 As discussed above, section 1129(b) of the Bankruptcy Code in certain circumstances permits confirmation of a plan that has not been accepted by all impaired classes

of claims and interests, notwithstanding the requirement of section 1129(a)(8) that each class of claims or interests either (i) accept the Plan, or (ii) not be impaired under the Plan.

121 Section 1129(b) provides:

> Notwithstanding section 510(a) of [the Bankruptcy Code], if all of the applicable requirements of [section 1129(a) of the Bankruptcy Code] other than [the requirement contained in section 1129(a)(8) that a plan must be accepted by all impaired classes] are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph *if the plan does not discriminate unfairly*, *and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan*.

11 U.S.C. § 1129(b)(1) (emphasis added); *see also Boston Post Rd. Ltd. P'ship v. FDIC (In re Bos. Post Rd. Ltd. P'ship),* 21 F.3d 477, 480 (2d Cir. 1994), *cert. denied,* 513 U.S. 1109 (1995); *In re Zenith Elecs. Corp*., 241 B.R. 92, 105 (Bankr. D. Del. 1999) ("Where a class of creditors or shareholders has not accepted a plan of reorganization, the court shall nonetheless confirm the plan if it 'does not discriminate unfairly and is fair and equitable.'").

122 Thus, section 1129(b) permits confirmation of the Plan despite the fact that (i) Classes K (Subordinated Claims) and L (Interests) are impaired and have been deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code, and (ii) Class E (Production Loan Secured Claims) is impaired and has voted to reject the Plan, provided that the Plan does not discriminate unfairly, and is fair and equitable, with respect to such Classes. The Debtors submit that the Plan meets these requirements, and therefore request confirmation of the Plan pursuant to section 1129(b).

1. The Plan Does Not Unfairly Discriminate

123 Section 1129(b) of the Bankruptcy Code thus permits a debtor's plan of reorganization to provide for unequal treatment of separately classified creditors with similar legal rights, so long as the discriminatory treatment of the impaired dissenting class is not

"unfair." *See Mercury Capital Corp. v. Milford Conn. Assocs., L.P.*, 354 B.R. 1, 10 (D. Conn. 2006). The Bankruptcy Code does not provide a standard for determining when "unfair discrimination" exists. *See In re 203 N. LaSalle St. Ltd. P'ship*, 190 B.R. 567, 585 (Bankr. N.D. Ill. 1995). Courts instead typically examine the particular facts and circumstances of the case. *See, e.g., In re Freymiller Trucking, Inc.*, 190 B.R. 913, 916 (Bankr. W.D. Okla. 1996).

124 Courts generally have found that a plan unfairly discriminates, in violation of section 1129(b) of the Bankruptcy Code, only if similarly situated claims are treated differently without a reasonable basis for the disparate treatment. *See In re Johns-Manville Corp.*, 68 B.R. 618, 636 (Bankr. S.D.N.Y. 1986) (the unfair discrimination standard "ensures that a dissenting class will receive relative value equal to the value given to all other similarly situated classes"); *In re Toy & Sports Warehouse, Inc.*, 37 B.R. 141, 151-52 (Bankr. S.D.N.Y. 1984) ("In a nutshell, if the plan protects the legal rights of a dissenting class in a manner consistent with the treatment of other classes whose legal rights are intertwined with those of the dissenting class, then the plan does not discriminate unfairly with respect to the dissenting class.") (citations omitted); *In re Young Broad., Inc.*, 430 B.R. 99, 139-40 (Bankr. S.D.N.Y. 2010) ("Under 1129(b)(1), a plan unfairly discriminates when it treats similarly situated classes differently without a reasonable basis for the disparate treatment."); *In re Jartran, Inc.*, 44 B.R. 331, 381-84 (Bankr. N.D. Ill. 1984) (holding that there is no unfair discrimination solely because separate classes contain different types of claims).

125 Here, the Plan does not unfairly discriminate with respect to Classes K (Subordinated Claims) and L (Interests), which will receive no distributions under the Plan and are therefore deemed to reject the Plan, because there are no holders of similarly situated Claims or Interests, as applicable, receiving any distributions under the Plan. The Production Loan

Agent's contention that the Plan unfairly discriminates against Holders of Claims in Class E (Production Loan Secured Claims) will be addressed in a separate filing. As such, the first prong of the cramdown requirements under 1129(b) is satisfied.

2. The Plan Is Fair and Equitable

126 The second prong of the cramdown test requires the Court to determine that the Plan is "fair and equitable" to any impaired, dissenting classes. This requirement is also met with respect to each of the relevant Classes under the Plan

(a) The Plan's Treatment of the Deemed Rejecting Classes Is Fair and Equitable Under Section 1129(b)(2)(B)

127 For a plan to be "fair and equitable" with respect to an impaired class of unsecured claims or interests that rejects a plan (or is deemed to reject a plan), the plan must follow the "absolute priority rule" and satisfy the requirements of section 1129(b)(2) of the Bankruptcy Code. *See* 11 U.S.C. §§ 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii); *see also Bank of Am. Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 441–42 (1999).

128 Generally, this requires that the impaired rejecting class of claims or interests either be paid in full or that any class junior to the impaired rejecting class not receive any distribution under a plan on account of its junior claim or interest. *See id*. In addition, for a plan to be "fair and equitable," no class of claims or interests senior to the impaired dissenting class is permitted to receive more than the full value of its senior claims or interests under the plan. *See In re Chemtura Corp.*, 439 B.R. 561, 592 (Bankr. S.D.N.Y. 2010); *In re Granite Broad. Corp.*, 369 B.R. 120, 140 (Bankr. S.D.N.Y. 2007) ("There is no dispute that a class of creditors cannot receive more than full consideration for its claim, and that excess value must be allocated to junior classes of debt or equity, as the case may be."); *In re Trans Max Techs., Inc.*, 349 B.R. 80, 89 (Bankr. D. Nev. 2006) ("One component of [the] fair and equitable treatment is that a plan

may not pay a premium to a senior class."); H.R. Rep. No. 95-595 at 414 (requirement for any cramdown is that "[n]o class may be paid more than in full").

129 Here, the Plan satisfies the absolute priority rule with respect to Classes K (Subordinated Claims) and L (Interests). First, no Class of Claims or Interests junior to such Classes will receive or retain any property under the Plan. Second, no Class of Claims or Interests will receive or retain property under the Plan that has a value greater than 100% of such Class's Claims or Interests.

130 Accordingly, the Plan satisfies the requirements of sections 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii) and, therefore, is fair and equitable with respect to Classes K and L.[10]

II. RESPONSES TO SPECIFIC OBJECTIONS

131 As noted above, the vast majority of Objections received by the Plan Proponents relate to disputes concerning the assumption or proposed cure amounts for particular contracts that will be assumed under the Plan. In the interests of brevity and convenience, the Debtors' response to such Objections is set forth in the attached Objections Chart and is not otherwise addressed herein. Moreover, as set forth in the Objections Chart, many of the Objections have been or will be resolved by agreement of the Objecting Parties prior to the Confirmation Hearing, and are not separately discussed here. However, a handful of the unresolved Objections raise issues with potentially broader implications for confirmation of the Plan.

A. The Ultimates Agent [Docket Nos. 1259 & 1339]

132 The Ultimates Agent objects to confirmation of the Plan on the grounds that the Holders of Claims in Class F (Ultimates Secured Claims) are improperly classified as unimpaired under the Plan, and therefore were not permitted to vote on the Plan. *See* Dkt. No.

[10] The Plan is also fair and equitable with respect to Class E (Production Loan Secured Claims), as will be discussed in a separate response to the Production Loan Agent's Objection.

1339, at 7. Although, as the Ultimates Agent concedes, the Plan provides for payment in full of the Class F Claims "on or as soon as practicable after the Effective Date," Plan § II.C.6, the Ultimates Agent maintains that such Claims are impaired under the Plan because the Ultimates Agent is listed on the schedule identifying Causes of Action that are retained under the Plan as a party against whom the estate may be entitled to bring post-confirmation claims. *Id.* The Ultimates Agent further argues that this results in the impairment of Class F Claims because the underlying agreements require the borrower entities to provide the Ultimates Agent and the Ultimates Lenders with a general release as a precondition to the release of their liens on the collateral securing the Ultimates Facility. The Ultimates Agent further argues that such a release is necessary in order to preserve its rights because assertion of post-confirmation claims by the Debtors' estates against the Ultimates Agent or Lenders could give rise to indemnification claims or reinstatement of the Ultimates Lenders' liens. As explained below, CIT's argument is not supported by the language of the relevant agreements, and its Objection should be overruled.

133 Section 8.10(a) of the Ultimates Credit Agreement states plainly that "[t]he security interests granted under this Article 8 shall terminate on the Obligations Payment Date." This provision is self-executing and thus, to the extent that payment in full of the Ultimates Lenders' claims triggers the occurrence of the "Obligations Payment Date" under the Ultimates Credit Agreement, then the security interests are released on that date without the need for further action by the borrowers or any affirmative requirement that the borrowers provide the Ultimates Agent or Lenders with a general release. "Obligations Payment Date" is defined under the Ultimates Credit Agreement as:

> the first date on which (i) the outstanding Obligations **(other than Unasserted Contingent Obligations and those obligations described in clauses (iii) and (iv) below)** have been paid in cash in full (or secured or reserved for in another manner reasonably

> acceptable to the Administrative Agent, including by cash collateralization), (ii) all commitments to extend credit hereunder or under any intercreditor agreement executed by the Administrative Agent have expired or been terminated, (iii) all Obligations then due and outstanding at the time of the occurrence of clause (i) above or which can be reasonably quantified at such time in respect of all Swap Agreements contemplated by clause (ii) of the definition of "Obligations" have been paid in full or the Credit Parties shall have entered into such other arrangements reasonably acceptable to the counterparties of such Swap Agreements to provide cash collateral or other reasonably acceptable security for such Obligations in respect of such Swap Agreements, and (iv) all Cash Management Obligations then due and outstanding at the time of the occurrence of clause (i) above or which can be reasonably quantified at such time have been paid in full or otherwise cash collateralized or secured in a manner reasonably acceptable to the Administrative Agent or the Credit Parties have entered into such other arrangements reasonably acceptable to the obligees of such Cash Management Obligations.

134 Thus, to the extent any future indemnification claim of the Ultimates Agent constitutes an Unasserted Contingent Obligation, the security interests would no longer extend to such claims once the Loans are repaid and the security interests have terminated. "Unasserted Contingent Obligations" is defined as "at any time, Obligations for taxes, costs, indemnifications, reimbursements, damages and other liabilities . . . in respect of which no assertion of liability (whether oral or written) and no claim or demand for payment (whether oral or written) has been made (and, in the case of Obligations for indemnification, no notice for indemnification has been issued by the indemnitee) at such time."

135 Based on the foregoing, once such loans are repaid in full on the Effective Date, as provided for under the Plan, the Production Lenders' security interests automatically terminate under Section 8.10 and any indemnification claim that arises thereafter would not be secured, and the Ultimates Agent and Lenders would have no recourse against the collateral. For this

reason, the Claims of the Production Lenders are not impaired under the Plan, and CIT's Objection should be overruled.[11]

136 In any event, even if the Claims of the Ultimates Lenders are deemed to be impaired, they are subject to cramdown under section 1129(b)(2)(A)(iii). The Ultimates Agent has failed to demonstrate that, outside of the Plan, the Ultimates Agent could demand a general release from the borrowers as a condition of releasing its liens on the collateral. As noted above, the liens are automatically terminated upon the occurrence of the Obligations Payment Date under the Ultimates Credit Agreement. As such, payment in full of the outstanding amounts owed on the effective date provides the "indubitable equivalent" of the Ultimates Lenders' claims. The Ultimates Lenders cannot obtain through cramdown rights that they would not otherwise have to demand a general release.

B. Netflix [Docket No. 1352]

137 Netflix objects to confirmation on the grounds that its licensing agreement with the Debtors cannot be assumed by the Debtors under the Plan as the result of the Debtor's failure to release the required "Yearly Minimum" number of films under the parties' agreement during 2015. As discussed below, however, the Debtors' inability to meet the required Yearly Minimum for 2015 is not an incurable breach of the agreement that would prevent its assumption as Netflix contends. Moreover, under the revised financial model to be presented by the Debtors at the Confirmation Hearing, the Debtors intend to designate a sufficient number of films released theatrically by third parties to meet the required Yearly Minimum commitments under the Netflix agreement on a go-forward basis.

[11] The Ultimates Agent also asserts a reservation of rights with respect to the scope of the Third Party Release. This issue has been resolved consensually.

138 As a general rule, the Bankruptcy Code allows for executory contracts to be assumed and assigned at the election of the debtor. 11 U.S.C. § 365(a). However, where there has been a default under an executory contract, the debtor is required to cure such default and to provide "adequate assurance" of future performance as a condition of assuming the contract. *Id.* § 365(b)(1).

139 Here, there is no dispute that the License Agreement is executory and therefore potentially assumable under section 365(a) of the Bankruptcy Code. Netflix instead alleges that section 365(b) bars assumption of the License Agreement because the Debtors (a) incurably breached the Agreement by failing to release the minimum number of films required by the Agreement in 2015, and (b) cannot provide adequate assurance of future performance.

140 It is true that section 4.1.1 of the License Agreement sets forth certain "Yearly Minimum" targets for the number of films to be released by the Debtors, and licensed to Netflix, during each year of the agreement's term. It is also true that the Debtors released a total of four films in 2015 and therefore did not meet their "Yearly Minimum" films requirement for that year under the terms of the License Agreement. Contrary to Netflix's assertions, however, this is not an incurable default.

141 Section. 9.2 of the Agreement (which is not even cited in Netflix's Objection) provides that, if the Debtors fail to meet the minimum number of films in any given year, "Netflix's *sole remedy* shall be a penalty payment of … $5,000,000 for each [film] below the minimum number of [films] required." License Agreement § 9.2 (emphasis added). Section 9.2 further provides that "[n]otwithstanding the foregoing, if the aggregate number of feature films financed, produced and/or distributed, in whole or in part, by [the Debtors] … during any [y]ear … is, despite [the Debtors'] good faith efforts, insufficient to meet the minimum [film]

requirements for such [y]ear, Netflix shall not be entitled to the foregoing penalty payment(s) or any other damages for such [y]ear." The License Agreement thus explicitly states that Netflix is not entitled to any penalty payments—which are its *sole remedy* in the event that the number of films released by the Debtors in any given year is less than the applicable Yearly Minimum—so long as the Debtors have made "good faith efforts" to release the minimum number of films during that year. The Debtors made good faith efforts to release several additional films in 2015. Moreover, the debtor's inability to release additional films in 2015 was the result of actions taken by certain other creditors that were beyond the Debtors' control.

142 In any event, even if the Debtors' failure to release the minimum number of films in 2015 constitutes a "default" such that requirements of section 365(b) apply to assumption of the License Agreement, the Debtors are not required to pay any cure amount. Under section 365(b)(2)(D) of the Bankruptcy Code, section 365(b)(1) does not apply to a default that is a breach of a provision relating to "the satisfaction of any penalty rate or penalty provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease." 11 U.S.C. § 365(b)(2)(D). Thus, even if the Court were to find that the Debtors did not make good faith efforts release the Yearly Minimum number of films in 2015 (which they did, as discussed above), the Debtors still would not be required to cure any alleged monetary defaults arising from the penalty clause set forth in section 9.2 of the License Agreement in order to assume the License Agreement.

143 Netflix also contends that, absent assumption of the License Agreement, the Plan is not feasible. According to Netflix, in order to demonstrate feasibility, the Debtors must show that the business can survive without any further revenues from Netflix. As discussed above, however, the Debtors' inability to meet the Yearly Minimum number of films for 2015 is no

impediment to assumption of the License Agreement, and thus there is no need to consider whether or not the Plan is feasible without Netflix. The Debtors further submit that there is no need for any additional form of adequate assurance to Netflix beyond a showing that the plan is feasible as required by Section 1129(a)(11) of the Bankruptcy Code. Finally, the Debtors' anticipate that they will meet the required Yearly Minimum for the remaining term of the License Agreement, not only by designating films released theatrically by Relativity, but also by designating films released theatrically by third parties to which the Debtors have acquired certain distribution rights.

144 For the above reasons, the Court should overrule the Netflix Objection and allow the Debtors to assume the License Agreement without paying any cure amount, as provided under the Plan.

C. VII Peaks [Docket No. 1353]

145 In addition to challenging the feasibility of the Plan, VII Peaks objects to the Plan on the grounds that is allegedly is not treated equally with other interest holders who, unlike VII Peaks, will receive equity interests in the Reorganized Debtors under the Plan. However, as clearly explained in the Disclosure Statement and Plan, Nicholas and Kavanaugh will receive equity in the Reorganized Debtors not in their capacity as former interest holders, but in their capacity as secured creditors holding $175 million of senior secured debt that they purchased from the TLA/TLB lenders, and which is being converted to equity under the Plan

Waiver of Stay

146 The Debtors respectfully request that the Court cause the Confirmation Order to become effective immediately upon its entry notwithstanding the 14-day stay imposed by operation of Bankruptcy Rule 3020(e), which states that "[a]n order confirming a plan is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise."

Fed. R. Bankr. P. 3020(e); *see also* Fed. R. Bankr. P. 3020(e), Adv. Comm. Notes, 1999 Amend (stating that a "court may, ***in its discretion***, order that Rule 3020(e) is not applicable so that the plan may be implemented and distributions may be made immediately") (emphasis added). Such a waiver is appropriate in these circumstances to allow the Debtors to proceed with their rapid reorganization in order to conserve resources and fees. In light of the general consensus on the Plan, a prompt Effective Date is appropriate.

Conclusion

For all of the above reasons, the Debtors respectfully request that the Court overrule the Objections and enter an order confirming the Plan, and such other or further relief as is just and proper under the circumstances.

Dated: January 28, 2016
New York, New York

Respectfully submitted,

JONES DAY

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NAI-1500786297v6

EXHIBIT A

(Objections Chart)

SUMMARY OF OBJECTIONS TO CONFIRMATION/CURE AMOUNTS/ESTIMATION MOTION

NO	DKT #	OBJECTING PARTY	SUMMARY OF OBJECTION	STATUS	COMMENTS
1.	1307	Macquarie US Trading LLC Macquarie Investments US Inc. HAHN & HESSEN LLP Rosanne T. Matzat (212) 478-7200 GIBSON, DUNN & CRUTCHER LLP J. Eric Wise Shira D. Weiner (212) 351-4000	**Reservation of Rights** 1. Macquarie and Relativity are negotiating terms for the replacement credit agreement, under which lies a claim for $26,818,821 plus interest. 2. Macquarie has cast its Class D ballots in favor of the Plan in a showing of good faith. 3. Macquarie will not file an objection nor change its vote, but reserves all rights to object or modify its votes if the replacement credit agreement and related documents are not finalized to its satisfaction.	Reserved	The Debtors submit that this Reservation of Rights does not necessitate a response at this time.
2.	1309	Google Inc. WHITE AND WILLIAMS LLP Rafael Vergara 212-244-9500	**Objection to Cure and Assumption of Contract** 1. Relativity and Google are parties to an advertising contract that is not listed in Exhibits 1-3 and was not previously assumed or rejected by the Debtors. 2. Google objects to the potential assumption of this contract with a cure amount of $0, unless Relativity pays Google all pre-petition arrearages under the contract in the amount of $647,874.04.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
3.	1313	Films Musicians Secondary Markets Fund ("FM") Merritt, Hagen & Sharf, LLP Mark Sharf (818) 992-1940 mark@sharflaw.com	**Conditional Objection** 1. Plan fails to list FM in the definition of entities (i.e., the Unsecured Union Entities) that will receive collective bargaining agreement assumption agreements. 2. Debtors have failed to make an agreement concerning the specific films that will be covered by the assumption agreements. FM states if a list is not provided, the plan cannot be confirmed unless the "free and clear" revesting language contains a carve-out for residual obligations due under collective bargaining agreements.	Resolved	The Parties have resolved this objection with a modification to the Plan definition 168 “Unsecured Union Entities”.

NO	DKT #	OBJECTING PARTY	SUMMARY OF OBJECTION	STATUS	COMMENTS
4.	1315	Christie Digital Systems USA, Inc. ("CDS") Greenberg Glusker Fields Claman & Machtinger LLP Jeffrey A. Krieger (310) 553-3610 jkrieger@greenbergglusker.com	**Cure Objection** 1. CDS states that the proper cure amount is $280,967.19 ($274,290.00 plus prepetition interest in the amount of $6,677.19). 2. CDS argues that the Debtors have failed to provide adequate assurance of future performance.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
5.	1316	Scrabble Ventures LLC ("Scrabble") Greenberg Glusker Fields Claman & Machtinger LLP Jeffrey A. Krieger (310) 553-3610 jkrieger@greenbergglusker.com	**Cure Objection** 1. In previous sale, originally listed cure amount of $10,200. At that time, Scrabble objected. Pursuant to the Plan, Debtor plans on assuming all contracts at $0.00 not listed on Exhibit E to the Plan. Scrabble is not listed, so presumably seek to assume with $0.00 cure. 2. Object to cure. Believes it should be $10,965.25	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
6.	1319	Mitchell Grossbach Christopher R. Gresh, Esq. MOSES & SINGER LLP cgresh@mosessinger.com	**Supplemental Objection to Assumption** 1. Creditor inquiring about the status of Document ID 18992 and 18993 and objecting to assumption.	Resolved	The Debtors have added Document 18992 to Plan Exhibit E-3 as the contract was terminated on 7/29/15, prior to the Petition Date.
7.	1320	QNO, LLC GIPSON HOFFMAN & PANCIONE (310) 556-4660 Jason Wallach, Esq. jwallach@ghplaw.com	**Objection to Cure and Assumption of Contracts** 1. The distribution contract related to the film "Somnia" listed on Exhibit E-2 cannot be assumed. The cure amount under the contract is at least $2,999,877. The Plan proposes $400,000. 2. The Plan proposes to release the film outside of the release date, causing $750,000 in liquidated damages. 3. The distribution contract cannot be assumed because it is a personal services contract. 4. Relativity (RMLSF) encumbered the distribution rights to RKA in return for an advance. The advance was spent on general business purposes, rather than the film. As RKA continues to intercept	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.

NO	DKT #	OBJECTING PARTY	SUMMARY OF OBJECTION	STATUS	COMMENTS
			domestic receipts that are due to QNO, the defaults will continue to grow. 5. If assumed, Relativity must perform the distribution obligations: release the film with a wide release (minimum 1800 screens w/ minimum spend of $20,000,000) and after distributor recoups, overage is shared 65% to QNO (with certain conditions). 6. QNO does not consent to the assumption.		
8.	1321	Viacom International, Inc. Richard Stern Michael Luskin Stephan E. Hornung LUSKIN, STERN & EISLER (212) 597-8200 stern@lsellp.com luskin@lsellp.com hornung@lsellp.com	**Objection to Cure and Assumption of Contract** 1. Relativity and Viacom entered into a licensing agreement for "Brick Mansions," under which Relativity committed to place advertisements with Viacom. Viacom placed advertisements for Relativity in the amount of $324,968.20. Payment has been demanded, but not received. 2. Failure to pay outstanding invoices within 10 business days of demand is default under the licensing agreement, which entitles Viacom to terminate the agreement. 3. The licensing agreement is not listed under Exhibit E1-E3, indicating Relativity intends to assume the agreement for $0.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
9.	1322	Paramount Pictures Corporation ("Paramount") Luskin, Stern & Eisler LLP Richard Stern (212) 597-8200 stern@lsellp.com	**Objection to Confirmation (Reservation of Rights)** 1. Paramount filed its objection in the event that the Plan attempts to sell "The Fighter" free and clear of Paramount's perfected security interest.	Resolved	The Parties have resolved this objection. The Debtors have agreed to add additional language to the Confirmation Order to alleviate Paramount's concerns.

10.	1323	Sony Music Entertainment ("Sony") Luskin, Stern & Eisler LLP Richard Stern (212) 597-8200 stern@lsellp.com	**Objection to Cure Amount** 1. Sony objects to the cure amount, stating that the proper total amount for all of Sony's contracts is $188,000, not $86,500.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
11.	1324	Digital Cinema Implementation Partners, LLC and Kasima, LLC Lance J. Jurich, Esq. Vadim J. Rubinstein, Esq. Loeb & Loeb, LLP 345 Park Avenue New York, NY 10154 Tel: (212) 407-4000 ljurich@loeb.com	**Objection to Assumption of Contract** 1. The debtors appear to intend to assign contracts with Digital Cinema and/or Kasima Relativity with cure amounts of $0.00. 2. Unclear which contracts, as no contract appear on Exhibit E. 3. The appropriate cure amount is $1,053,243.03	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
12.	1326	Comcast Spotlight, LLC Comcast Cable Communications, LLC Matthew G. Summers Ballard Spahr LLP (302) 252-4428 summersm@ballardspahr.com	**Objection to Cure and Assumption of Contract** 1. Relativity owes Comcast Spotlight $898,044.18 in advertising time and services as of the petition date (6/30/2015). The relevant contracts are not included in Exhibit E1-E3. 2. Relativity owes Comcast Cable $320,807.65, the percentage of gross revenues derived from VOD rentals for "The Family" and "Don Jon." The agreement expired by its own terms on 9/20/14. Case law states that a contract that expires by its own terms prior to the bankruptcy is not executory. Further the Plan states that contracts whose terms have expired will not be assumed. Nonetheless, the agreement is listed in the Plan with a cure of $0.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.

13.	1327	Bev/Early, LLC ("BE") Halperin Battaglia Benzija Alan Halperin (212) 765-9100 ahalperin@halperinlaw.net	**Reservation of Rights** 1. BE has no objection to the Debtors rejecting a certain services agreement, but BE reserves all rights with the forfeiture provision under the agreement, which states that the Debtors 20% equity interests in BE is forfeited in the event of a material breach.	Adjourned	The Parties have agreed to adjourn the matter until a hearing scheduled after February 17, 2016.
14.	1328	PureBrands, LLC Halperin Battaglia Benzija Alan D. Halperin, Esq. (212) 765-9100 ahalperin@halperinlaw.net	**Objection to Rejection of Contract** 1. Relativity Media holds membership interest in PureBrands, and entered into an LLC agreement. 2. The LLC Agreement is not an executory contract susceptible to assumption or rejection under § 365 of the Bankruptcy Code.	Adjourned	The Parties have agreed to adjourn the matter until a hearing scheduled after February 17, 2016.
15.	1329	Relativity Education, LLC ("Education") Halperin Battaglia Benzija Alan Halperin (212) 765-9100 ahalperin@halperinlaw.net	**Objection to Cure** 1. Education argues that the Debtors cannot assume the Education LLC Agreement with a $0 cure because the Education LLC Agreement requires the Debtors to make capital contribution that must be cured upon assumption.	Adjourned	The Parties have agreed to adjourn the matter until a hearing scheduled after February 17, 2016.
16.	1330	LAMF LLC Gipson Hoffman & Pancione Jason Wallach (310) 556-4660 jwallach@ghplaw.com	**Objection to Cure** 1. LAMF and RML are parties to a Term Sheet, as amended, concerning "The Disappointments Room" ("TDR"). LAMF alleges that RML breached the Term Sheet by (1) "encumbering the Netflix Minimum Guaranty to CIT to reduce RML's equity contribution" and (2) "encumbering all the TDR assets to RKA, while diverting all but a trivial amount of the $18,000,000 advance from RKA to its general corporate purposes and deficits, not to spending on releasing and advertising TDR." LAMF states that if these defaults are not incurable, they must be cured before assumption. 2. LAMF objects to the $0 cure. 3. LAMF states that the Term Sheet must be assumed *cum onere*.	Resolved	This objection was resolved via stipulation filed with this Court at Dkt 1454. As part of the Stipulation, LAMF withdrew their Objection.

17.	1333	The Directors Guild of America, Inc. ("DGA") et al (collectively, the "Union Entities") Cohen, Weiss and Simon David R. Hock (212) 563-4100 dhock@cwsny.com BUSH GOTTLIEB Joseph A. Kohanski (818) 973-3200 jkohanski@BushGottlieb.com	**Reservation of Rights** 1. Union Entities look forward to an evidentiary showing by the Debtors, at the Confirmation Hearing, that will permit this Court to find the Proposed Plan both feasible and confirmable. 2. With this expectation, the Union Entities have cast Class G and Class J ballots in favor of the Proposed Plan. 3. However, the Union Entities also necessarily reserve all rights to object to the Proposed Plan or to seek modification of their votes should circumstances so warrant, particularly in connection with issues pertaining to confirmability or changes in Plan terms.	Reserved	The Debtors submit that this Reservation of Rights does not necessitate a response at this time.
18.	1334	IATM, LLC; Bandito Brothers, LLC; Bandito Films, Inc.; Scott Waugh; Mouse McCoy, Jay Pollak; Jacob Rosenberg; and Bret Anthony Johnston Theodore B. Stolman Carol Chow Freeman Freeman & Smiley (310) 255-6100 ted.stolman@ffslaw.com carol.chow@ffslaw.com	**Objection to Plan** 1. IATM Entities are not satisfied based upon the filings to date that the Debtors have the financial wherewithal to feasibly proceed with their Plan and the financial performance required in assuming the License Agreement and other alleged executory contracts as discussed hereafter. 2. Unless and until the Debtors provide the missing financial information identified herein and allow the Objecting Parties and other parties in interest a reasonable opportunity to review and further comment upon such information, confirmation of the Debtors' Plan should be denied or continued in order to allow interested parties a fair opportunity to review the feasibility of the Debtors' Plan, following the submission of the missing financial information.	Unresolved	The Debtors have addressed this objection in portions of the Confirmation Brief that discuss the feasibility of the Plan.

19.	1336	IATM, LLC et al. Theodore B. Stolman Carol Chow Freeman Freeman & Smiley (310) 255-6100 ted.stolman@ffslaw.com carol.chow@ffslaw.com	**Objection to Assumption of Executory Contracts** 1. IATM re-filed and re-noticed their prior objections to the Debtors' assumption of the License Agreement and the Alleged SWAT Agreements for the reasons set forth in their prior pleadings, including Docket Nos. 492, 493, 519, and 764, all of which are incorporated herein by reference.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
20.	1337 & 1338	Brett Ratner and Rat Entertainment, Inc. ("Ratner") Greenberg Glusker Fields Claman & Machtinger LLP Jeffrey A. Krieger (310) 553-3610 jkrieger@greenbergglusker.com	**Objection to Cure Amount** 1. Ratner argues that the cure amount for a certain settlement agreement that incorporates a certain letter agreement, dated 2/26/10, "at least $650,000, plus an ongoing 10% gross participation in the revenues generated from the continuing exploitation of the existing episodes of Catfish, which Ratner believes number approximately 65 episodes in total."	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
21.	1259 & 1339	CIT Bank, N.A. Morgan, Lewis & Bockius LLP Glenn Siegel 212-309-6001 glenn.siegel@morganlewis.com Julia Frost-Davies 617-341-7700 julia.frost-davies@morganlewis.com	**Reservation of Rights [1259]** 1. Disagree on Unimpaired Status. 2. While the Ultimates Agent believes that this issue, which goes to the heart of plan treatment, is most appropriately addressed at the time of confirmation, it files this reservation of rights to make clear that it does not concede that the Plan's proposed treatment of the Ultimates Secured Claims renders the Ultimates Agent and Ultimates Lenders "unimpaired" or results in a confirmable plan. 3. By reserving rights to bring claims against Ultimates Agent and Lenders, the Debtors could trigger rights under the applicable credit agreement.	Unresolved	The Debtors addressed this matter directly in the Confirmation Brief.

			Objection to Confirmation [1339] 1. CIT argues that the plan fails to satisfy section 1126 of the Bankruptcy Code because the Ultimates Secured Claims are impaired and not entitled to vote. 2. CIT argues that the Debtors cannot satisfy section 1129(b) of the Bankruptcy Code (cram down) because the Plan fails to treat the Ultimates Agents' and Ultimates Lenders' unliquidated reinstatement and indemnification rights in accordance with section 1129(b)(2)(A) of the Bankruptcy Code, stating that the Plan will force the release of the Ultimates Liens despite failing to have a mechanism to preserve and protect the reinstatement and indemnification rights provided in the Ultimates Credit Agreement. 3. CIT objects to the Plan's release, exculpation and injunction provisions, stating that each, on their face, can be read as releasing the parties to the Ultimates Intercreditor Agreement from their obligations there under.		

22.	1340	Discovery Communications Greenberg Glusker Fields Claman & Machtinger LLP Jeffrey A. Krieger (310) 553-3610 jkrieger@greenbergglusker.com	**Objection to Assumption of Contract** 1. Discovery objects to confirmation of the Plan based upon the Debtors' failure to provide critical accurate information with respect to the status and treatment of the Discovery Agreements. Under the Plan, the Debtors seek to assume all contracts, unless specifically noted to the contrary. As such, and based upon the Plan Supplement and the inaccurate Amended List (of Assigned Contracts), there is an unnecessary lack of clarity and confusion as to what contracts the Debtors intend to assume under the Plan. The Debtors have already agreed and the Court has ordered that only the Discovery Agreements specifically described in the Second Supplemental Sale Order are capable of assumption or assignment, and those have already been assumed and assigned to the Buyer. 2. The Debtors should be required to amend Exhibit E-3 to properly reflect that the balance of the Discovery Agreements are not being assumed by the Debtor. In addition, the Debtors must be compelled to correct the Amended List (of Assigned Contracts) so that it is completely consistent with the Second Supplemental Sale Order.	Resolved	The Debtors believe the objection is resolved by virtue of the changes to Exhibit E-3 to the Plan and the updated Notice of Filing of Assumed Contracts that counsel for the both parties is currently finalizing and expects to file shortly.

23.	1341 1361	Nicholas Sparks Production, LLC GOE & FORSYTHE, LLP Robert P. Goe, Esq. (949) 798-2460 rgoe@goeforlaw.com	**Reservation of Rights** 1. Sparks entered into multiple agreements with Relativity concerning the films "Safe Haven" and "The Best of Me." Under these agreements, Sparks is entitled to a percentage of revenues from the films. Relativity has not disclosed the revenues generated by the films, so Sparks cannot calculate the amount of the claims. 2. On 1/14/16, Sparks filed a Motion for Temporary Allowance of Claim: no less than $10,000,000 for "Safe Haven" and $5,000,000 for "Best of Me." Debtors have not responded. 3. The Sparks agreements are not listed within Exhibit E of the Plan Supplement, and therefore the Sparks agreement are to be assumed by the plan. 4. However, if it is argued that the Sparks agreements are not assumed under the Plan, Sparks reserved its rights to object to the confirmation of the plan.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
24.	1342	Unifi Completion Guaranty Insurance Solutions, Inc. Jason Wallach GIPSON HOFFMAN & PANCIONE (310) 556-4660 jwallach@ghplaw.com	**UniFi Completion Guaranty/Objection to Cure** 1. Contracts cannot be assumed as the Plan does not provide any cure. 2. Any contracts related to "Hunter Killer" cannot be assumed because UniFi never executed a Completion Guaranty for that film. 3. Release of "Masterminds" and "The Disappointments Room" will not cure all defaults. 4. Netflix and foreign distributors may be excused from performance if "Masterminds" is released after April 1, 2016, as called for in the Plan.	Unresolved	The Debtors will address this objection in a pleading separate from the Confirmation Brief.

25.	1344	Colbeck Capital Management, LLC CP IV SPV, LLC CB CA Lending, LLC Jason Coldne CB Agency Services Adam C. Harris Parker J. Milender SCHULTE ROTH & ZABEL 212-756-2000 Adam.Harris@srz.com Parker.Milender@srz.com	**Objection to Debtor's Proposed Rejection of Contracts** 1. The Colbeck agreements, with the possible exception of the Consulting agreement, are not executory contracts susceptible to assumption or rejection. 2. The Release agreement has been fully performed, and is therefore not executory. The Out of Furnace agreement has been terminated by its own terms, and is therefore not executory. The LLC agreement, Falcon fee letter and fee letter are not executory contracts because they do not contain provisions that require ongoing substantial performance. Under the Consulting agreement, Relativity has the right to terminate at any time by providing notice; therefore, rejection is not necessary. 3. Colbeck requests that the agreements be removed from Exhibit E.	Unresolved	The Debtors will address this objection in a pleading separate from the Confirmation Brief.
26.	1345 1364 1351	Silver Reel Entertainment Mezzanine Fund, L.P and Supersensory LLC Greenberg Glusker Fields Claman & Machtinger LLP Brian L. Davidoff (310) 201-7520 BDavidoff@greenbergglusker.com	**Objection to Assumption and Cure** 1. As to Solace: first, the cure amount for the agreement is stated incorrectly as $250,000 whereas it should be $1,750,000; second, RML fails to compensate the Solace Parties for the pecuniary losses suffered by the Solace Parties, including attorney's fees of $104,134, and other damages and costs, well in excess of $450,000. 2. As to Fallen, the agreement should be removed from Plan Supplement Exhibit E-2 (Contracts to be Assumed) and should be added to Plan Supplement Exhibit E-3 (Contracts and Leases that are Terminated) because it has expired by passage of time.	Unresolved	The Debtors agree that under the terms of the agreement, there is a minimum guarantee obligation due upon delivery, but delivery has not yet occurred. The Debtors have proposed a payment schedule to counsel and seek to defer the matter to the 2/17 hearing to the extent they cannot reach agreement.

		(con't)	**Notice of Refiling of Reservation of Rights [1351]** 1. Silver Reel and Supersensory LLC ("The Solace Parties") object and reserve all of their rights and remedies to the assumption and assignment of agreements with Relativity. 2. Relativity owes the Solace Parties $1,850,000. If this is not paid, Relativity will be in default under the Distribution agreement. Currently, the total proposed cure amount is $0. Solace Parties request any order approving the assumption and assignment of the agreements include the $1,850,000. 3. If the Stalking Horse bidder, or another successful bidder, is capable of performing the obligations under the agreement, the Solace Parties do not *per se* object to the assumption. If not, they want adequate assurance of future performance. 3. To the extent that the debtors' sale of the copyright at issue in the agreement is free and clear, the Solace Parties object.		
27.	1347	Danone Waters of America, Inc. ("DWA") LOWENSTEIN SANDLER LLP Michael S. Etkin, Esq. Keara Waldron, Esq. (212) 262-6700	**Objection** • DWA re-filed its objection to the sale order, arguing that the Debtors breached the Strategic Branding and Marking Agreement (the "Agreement") prepetition, the Debtors' breach is incurable, the cure amount is no less than $4,520,000.00 and the Debtors have failed to provide adequate assurance of future performance. • DWA also argues that the Debtors should be "judicially and equitably stopped from seeking to assume the Agreement." • DWA requested an order denying the Debtors' proposed assumption and assignment of the Agreement.	Resolved	The Debtors submit that this Objection is resolved as the Debtors have added the contract at issue to Exhibit E-3 to the Plan.

28.	1352 1355 Decl	Netflix, Inc. Shane J. Moses, Esq. Scott H. McNutt, Esq. MCNUTT LAW GROUP LLP (415) 995-8475	**Objection to Assumption of Agreements and Confirmation of Plan** 1. Netflix will not consent to the proposed assumption because no meaningful information has been provided to demonstrate that the Reorganized Debtors will be able to perform their obligations under the License Agreements. 2. Netflix demands adequate assurance of future performance. The agreement imposes significant performance requirement on Relativity, including development, production and theatrical release. 3. Further, the License agreements are in default and therefore cannot be assumed.	Unresolved	The Debtors specifically responded to this Objection in the Confirmation Brief.
29.	1353	VII Peaks Co-Optivist Income BDC II, Inc., VII Peaks Capital FBO Marquette. and VII Peaks-R Holdings, Inc. RABINOWITZ, LUBETKIN & TULLY, LLC Jeffrey A. Cooper (973) 597-9100 DEUTSCH, LEVY & ENGEL, CHARTERED Joel A. Stein, Esq. (stein@dlec.com) (312) 346-1460	**Objection to Confirmation** 1. Debtors seek confirmation of a Plan of Reorganization that fails in multiple respects to meet the requirements for confirmation as provided for by Section 1129 of the Code, including the fact that it fails to treat interest holders such as the VII Peaks Entities fairly, that it remains incomplete, that it has not fully disclosed how the "reorganized" debtor can be a successful business venture, and has not met the financial goals that the Debtor itself has laid out in the Proposed Plan as necessary for successfully emerging from bankruptcy. 2. Specifically: (i) Inadequate information about $100m financing; VII peaks is not treated equally with other class E Holders; haven't demonstrated feasibility; (iii) Exhibit H is flawed as it does not describe who will receive the Warrants to Purchase Class A Unites of the reorganized Debtor.	Unresolved	The Debtors submit that the Confirmation Brief adequately responds to the contentions raised in this Objection.

30.	1362	Voltage Pictures, LLC GARY E. KLAUSNER DAVID L. NEALE JOHN-PATRICK M. FRITZ LEVENE, NEALE, BENDER, YOO & BRILL L.L.P. (310) 229-1234 GEK@LNBYB.COM DLN@LNBYB.COM JPF@LNBYB.COM	**Objection to Cure Amount** 1. Exhibit E states the proposed cure for assumption of the Voltage agreement as $1,172,604. 2. Debtors have acknowledged in emails that the unpaid Guild Obligations are at least $1,773,208. Voltage believes the amount might be significantly higher than this. 3. Voltage is working with the Guilds to determine the actual amount. Until the cure amount is agreed upon, Voltage objects to assumption and cure.	Unresolved	The Debtors are currently finalizing a resolution of this objection with Voltage Pictures LLC, and anticipate that a response will not be needed.
31.	1375	McDonald Productions ("BMP") PRYOR CASHMAN LLP Richard Levy, Jr. James A. Janowitz Karen Robson (212) 421-4100	**Objections and Reservation** 1. BMP states our proposed cure amount of $89,004 is incorrect. BMP does not know the exact cure but alleges that it includes liquidated cure amounts under a certain German Distribution Agreement totaling $227,290. 2. That could also be a cure amount under a certain France Distribution Agreement. 3. BMP requires adequate assurance of future performance. 4. BMP argues that its agreements cannot be assumed unless all of the related BMP agreements are assumed.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
32.	1377	Riccardo Tisci S.r.l. and Riccardo Tisci DENTONS US LLP Claude D. Montgomery Paul C. Gunther (212) 768-6700	**Reservation** 1. Reserves rights in the event that the Bankruptcy Court does not sign the Agreement, (1) to object that the agreement is an Executory Contract capable of being assumed, and any proposed assumption or assignment of the Agreement, and (2) to preserve Tisci's contractual right to seek an arbitrator's determination that the Agreement was terminated prepetition, and (3) any related relief.	Reserved	The Debtors submit that this Reservation of Rights does not necessitate a response at this time.

33.	1388	Andrew Matthews ("AM")	**Contract Assumption Objection** 1. AM argues that the following agreements cannot be rejected because they are not executory: (i) the Executive Employment Agreement dated May 28, 2013, (ii) Amendment No. 1 to Executive Employment Agreement dated July 24, 2014 and (iii) a Release dated June 26, 2015. 2. AM argues that the agreements are not executory because the Debtors and AM have rendered substantial performance in all essential parts of the agreements.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
34.	1288 & 1392	The Weinstein Company LLC ("TWC") GIPSON HOFFMAN & PANCIONE (310) 556-4660 Jason Wallach, Esq. jwallach@ghplaw.com	**Objection to Assumption of Contract [1288]** 1. Relativity apparently intends to Assume the ASM Contract without any cure. 2. Relativity Music Group, LLC defaulted on the ASM Agreement and thus must cure before assumption. **Objection [1392]** 1. TWC seeks further clarification as to what contracts are being reject. 2. To the extent that the Debtors are attempting to reject a certain confidential settlement agreement dated 1/19/12 and amended on 2/10/14, TWC argues that the Debtors are required to cure all defaults that were dealt with in the confidential settlement agreement. 3. TWC argues that the confidential settlement agreement cannot be rejected because the Debtors have no obligations under it and it is thus not executory.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.

35.	1331	Happy Walters QUINN EMANUEL Scott C. Shelley (212) 849-7000 Eric Winston (LA office) ericwinston@quinnemanuel.com	**Objection to Confirmation** 1. Seeks clarification of the following issues: treatment of ordinary course administrative claims under II.A.1.C; treatment of his terminated employment contract (not listed on Exhibit E though it was originally). 2. Mr. Walters' limited plan objection expresses uncertainty on how his alleged administrative claims, which the Debtors' currently dispute, should be addressed under the Plan. Mr. Walters is also uncertain whether he qualifies for indemnification under the plan based on his alleged postpetition employment with the Debtors.	Unresolved	Neither objection is related to confirmation of the Plan and instead focuses on the filing of potential administrative and/or indemnification claims. If Mr. Walters believes as stated in the objection that he is entitled to such claims, then Mr. Walters should file (i) an administrative claim in accordance with Section II.A.1(g) of the Plan, and/or (ii) a claim for indemnification in accordance with Section IV.H of the Plan.
36.	1346	Beverly Place, L.P. KELLEY DRYE &WARREN Robert LeHane Gilbert R. Saydah, Jr (212) 808-7623 Allen Matkins Leck Gamble Mallory & Natsis LLP Michael S. Greger Ivan M. Gold A. Kenneth Hennesay, Jr. (415) 837-1515	**Objection** • Beverly argues that the Debtors have failed to provide adequate assurance of future performance. • Beverley argues that, as of 1/15/16, it is owed $44,983.00 in parking charges. • Beverly argues that it is entitled to compensation for pecuniary loss in the form of attorneys' fees and costs incurred in connection with the Chapter 11 Cases involving enforcement of its rights under the lease. Beverley further argues that pursuant to Article 16 of the lease, Beverley is owed $37,142.60.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
37.	1402	Cinedigm Digital Cinema Corp. ("Cinedigm")	**Limited Objection** 1. Cinedigm states that its cure amounts are as follows: $696,843 for Doc 20061 and $1,394,583 for Doc 20062.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.

38.	1407	FilmNation International, LLC ("FN")	**Limited Objection** 1. FN states that the Debtors agreed that FN's cure amount is $51,936.61.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
39.	1408	LMB Holdings Limited (LMB)	**Objection** 1. LMB argues that the Debtors must identify which LMB agreements that they intend to assume. LMB also objects to any attempt by the Debtors to assume certain LMB agreements that were not identified in connection with the Sale motion (amendment to letter agreement executed on 4/30/15, amendment to motion picture co-financing binding term sheet executed on 4/30/15 and amendment to shareholders agreement executed on 4/30/15). 2. LMB argues that the Debtors cannot use section 365 of the Bankruptcy Code to require LMB to provide additional funding because agreements to make loans or provide financial accommodations to debtors are not assumable. 3. LMB argues that the Debtors must be the $3 million pursuant to the Financing Term Sheet before they can assume any LMB agreements.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
40.	1409	EuropaCorp S.A. ("EC")	**Objection** 1. EC states that the cure amount for the Brick Mansions Agreement is $338,000. 2. EC states that the cure amount for the Malavita Agreement is $829,894. 3. EC states that the Debtors have failed to provide adequate assurance of future performance.	Adjournment Requested	The Debtors have requested agreement to an adjournment of the matter to February 17, 2016 so that all contract and cure issues are deferred to such hearing. To the extent the objecting party does not agree, the Debtors will address this objection in a pleading separate from the Confirmation Brief

41.	1411	EuropaCorp Films USA, Inc. ("ECF")	**Objection** 1. ECF argues that the Debtors have failed to provide adequate assurance of future performance 2. ECF argues that Relativity breached the operating agreement by failing to cause "The Transporter Refueled" to be distributed pursuant to a certain Netflix agreement. EFC further argues that if the ECF agreements are assumed and the Plan is confirmed, the Debtors must pay ECF for the pecuniary loss resulting from Relativity's breach. 3. ECF argues that the following breaches are incurable and prevent assumption of the operating agreement: RML failing to cause "The Transporter Refueled" to be distributed pursuant to a certain Netflix agreement; RML failing to establish the Netflix Collection Account; and RML failing to release the minimum number of films under the Netflix agreement.	Adjournment Requested	The Debtors have requested agreement to an adjournment of the matter to February 17, 2016 so that all contract and cure issues are deferred to such hearing. To the extent the objecting party does not agree, the Debtors will address this objection in a pleading separate from the Confirmation Brief
42.	1414	CIT Bank, N.A., as Production Loan Agent and Lender ("CIT")	**Objection** 1. CIT argues that the Debtors cannot (a) meet the debtor by debtor test required by the best interests test; (b) show feasibility; (c) comply with 1129(a)(2) because the debtors failed to comply with the disclosure and solicitation requirements by issuing unsubstantiated press releases as the voting deadline approached. 2. CIT argues that the Debtors have failed to disclose post-confirmation directors and officers. 3. CIT argues that the plan violates sections 365, 510(a) 1125 and 1127 of the Bankruptcy Code. 4. CIT argues that the plan contains impermissible third party releases 5. CIT argues that the Debtors cannot take advantage of cramdown because the Plan does not meet the requirements of 1129(b). 6. CIT argues that the Plan's treatment of lenders is not fair and equitable because it unreasonably shifts risk to the lenders and the lenders are not properly retaining their liens.	Unresolved	The Debtors will address this objection in a pleading separate from the Confirmation Brief

			7. CIT argues that the lenders' treatment under the Plan does not provide for them to realize the indubitable equivalent of their secured claims.		
43.	1429	Universal Music Enterprises Universal Music Publishing Group Jane K. Springwater FRIEDMAN & SPRINGWATER LLP (415) 834-3800 jspringwater@friedmanspring.com	**Objection** 1. Universal argues that the objection does not specify the cure amounts for each individual UME and UMPG contract to be assumed. 2. Universal argues the cure amount, in total, is incorrect: it should be $232,773.65, plus any additional undetermined amounts owing under the Licenses and additional royalties due as of the assumption date (not $168,000 listed in E-2). Universal argues parties have previously agreed on cure amounts for certain agreements via email, and objecting party has previously objected to some other cure amounts.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
44.	1442	Bold Films Productions, LLC Lance J. Jurich, Esq. P. Gregory Schwed, Esq. Loeb & Loeb LLP (212) 407-4000 ljurich@loeb.com	**Objection** 1. Bold is filing this Objection provisionally, solely to reserve Bold's rights in case the Debtor's contemplated rejection does not occur as planned. 2. Bold argues the agreement can't be assumed because Relativity has not shown it can cure its defaults and provide adequate assurance of future performance. 3. Bold argues the plan can't be confirmed because it fails to meet the feasibility test of Section 1129(a)(11) and the adequate means test of Section 1123(a)(5).	Unresolved	The Debtors have addressed this objection in portions of the Confirmation Brief that discuss the feasibility of the Plan.
45.		Lionsgate	Informal objection.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.
46.		DECE	Informal objection.	Adjourned	The Parties have agreed to adjourn the matter until February 17, 2016.