

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re: ) Chapter 11  
)  
AcuSport Corporation, ) Case No. 18-52736  
)  
Debtor. ) Honorable John E. Hoffman, Jr.

**DEBTOR’S MOTION FOR AN ORDER (I) SCHEDULING EXPEDITED HEARINGS ON CERTAIN FIRST DAY MOTIONS AND APPLICATIONS AND (II) APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

AcuSport Corporation, the debtor and debtor in possession (“*Debtor*” or “*AcuSport*”) in this chapter 11 case (the “*Case*”), files this motion (the “*Motion*”) for entry of an order, pursuant to section 105 of title 11 of the United States Code (the “*Bankruptcy Code*”) and Rule 9073-1 of the Local Rules of Bankruptcy Procedure for the Southern District of Ohio (the “*Local Rules*”), (i) scheduling expedited hearings on certain first day motions and applications; and (ii) approving the form and manner of notice thereof. In support of this Motion, Debtor respectfully states as follows:

**JURISDICTION AND VENUE**

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

**BACKGROUND**

2. On May 1, 2018 (the “*Petition Date*”), Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Debtor continues to manage and operate its business as a debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108.

3. No request has been made for the appointment of a trustee or examiner, and no official committee has been appointed in this Case.

4. A detailed description of Debtor's business, capital structure, and events leading to this Case is more fully set forth in the Declaration of John K. Flanagan (the "*Flanagan Declaration*") filed contemporaneously herewith, which is incorporated herein by reference.

5. AcuSport is recognized nationwide as one of the leading distributors of outdoor and shooting sports products. The company is headquartered in Bellefontaine, Ohio and has regional sales offices in Pennsylvania, Georgia, Minnesota, Montana, California and Texas. To ensure and enable customer service to the West Coast, AcuSport also operates a warehouse and distribution facility located in Salt Lake City, Utah.

6. As part of its business, AcuSport provides consulting services to independent retailers, helping them to efficiently acquire products, utilize state-of-the-art business tools and provide value-added services that increase profitability and strengthen retailers' businesses. AcuSport's commitment to independent retailers is the cornerstone of its business.

7. AcuSport prospered for years following its inception in 1982, with substantial sales growth leading to the expansion of its facility in Bellefontaine. However, AcuSport began to experience financial difficulty in late 2016 and early 2017.

8. In the time leading up to the 2016 presidential election, consumers were concerned about the possibility of stricter gun control laws, which led to increased sales of firearms and accessories. As a result, AcuSport, along with other firearms businesses, prepared for a spike in demand by, among other things, purchasing substantial amounts of inventory. Contrary to expectations, no spike in demand for firearms occurred following the 2016 election. Indeed, demand decreased. The reduction in sales directly impacted AcuSport's gross revenue,

and, ultimately, its bottom line. The harm to AcuSport's financial position was further exacerbated because AcuSport had expected — and prepared for — an increase in sales. The reduction in sales negatively impacted AcuSport's operational performance, resulting in defaults under AcuSport's prepetition secured credit agreement, and ultimately, the company entered into a series of forbearance agreements with its Prepetition Lenders.

9. In connection with the forbearance agreements with the Prepetition Lenders, AcuSport retained Huron Consulting Services LLC as its financial advisor and Huron Transaction Advisory LLC as its investment banker. AcuSport also agreed to seek a refinancing process of its secured debt obligations. Huron Transaction Advisory LLC was retained for the purposes of preparing, marketing, and leading the consummation of one or more potential strategic alternatives, including a refinancing process, and eventually, a sale process. In that regard, AcuSport spent several months prior to the filing of this Case exploring potential sales and other strategic options.

10. AcuSport eventually obtained an offer from United Sporting Companies, Inc. ("*United*") to purchase (through an affiliate), among other things, AcuSport's inventory, real estate, equipment, technology, and certain other intangible assets. In order to effectuate a transaction to United (or another higher or better bidder or bidders), and to maximize the value of its assets for the benefit of all its constituents, AcuSport filed for bankruptcy relief and has sought the approval of bidding and sale procedures with United as the stalking horse.

11. Subsequent to filing its chapter 11 petition in this Case, Debtor filed a number of motions (the "*First Day Motions*") requesting emergency relief, including the following:

- (a) Motion For An Order Extending Debtor's Time To File Schedules Of Assets And Liabilities And Statement Of Financial Affairs [Docket No. 8] ("*Schedules Motion*");

- (b) Motion For Authority To Continue Use of Existing Bank Accounts, Business Forms, And Cash Management System, And For Waiver Of Investment Guidelines [Docket No. 9] (“*Cash Management Motion*”);
- (c) Motion For An Order (I) Authorizing Debtor To (A) Pay Prepetition Employee Wages, Salaries, And Other Compensation, (B) Reimburse Prepetition Employee Business Expenses, (C) Pay Prepetition Payroll Taxes And Benefits For Which Payroll Deductions Were Made, (D) Make Prepetition Contributions And Pay Prepetition Benefits Under Employee Benefit Programs, And (E) Pay Related Costs And Expenses; And (II) Directing Financial Institutions To Honor And Process Checks And Transfers Related To Such Relief [Docket No. 10] (“*Employee Motion*”);
- (d) Motion For An Order Authorizing Debtor To Pay Certain Prepetition Taxes And Fees [Docket No. 11] (“*Taxes Motion*”);
- (e) Motion For An Order Authorizing Debtor (I) To Perform Obligations Necessary To Maintain Insurance Coverage And (II) To Enter Into New Insurance Coverage As Needed [Docket No. 13] (“*Insurance Motion*”);
- (f) Motion For An Order (I) Prohibiting Utilities From Altering, Refusing, Or Discontinuing Services To Debtor And (II) Establishing Procedures For Determining Requests For Additional Adequate Assurance [Docket No. 14] (“*Utilities Motion*”);
- (g) Debtor’s Application For An Order Authorizing Debtor To Employ And Retain Donlin, Recano & Company, Inc. As Notice, Claims And Solicitation Agent, Effective *Nunc Pro Tunc* To The Petition Date [Docket No. 15] (“*DRC Application*”); and
- (h) Motion For Interim And Final Orders (I) Authorizing Debtor To Use Cash Collateral; (II) Authorizing Debtor To Enter Into A Standby Postpetition Financing Facility; (III) Granting Adequate Protection To Prepetition Secured Creditors; (IV) Modifying The Automatic Stay; And (V) Scheduling And Approving The Form And Method Of Notice Of Final Hearing [Docket No. 16] (“*Cash Collateral Motion*”).

**RELIEF REQUESTED**

12. Given the emergency nature of the relief requested in the First Day Motions, Debtor hereby seeks entry of an order, pursuant to section 105 of the Bankruptcy Code and Local Rule 9073-1, (i) scheduling expedited hearings on the First Day Motions; and (ii) approving the form and manner of notice thereof.

**BASIS FOR RELIEF REQUESTED**

**I. The Nature of the Relief Requested in the First Day Motions Requires Emergency Hearings.**

13. As set forth in detail in each of the First Day Motions, the relief requested is essential to Debtor's operations and, in turn, its ability to successfully utilize the chapter 11 process. Any delay with respect to the relief requested in the First Day Motions would severely hinder Debtor's ability to preserve and maximize the value of its estate for the benefit of its creditors. For example, Debtor cannot continue operating its business without the relief requested in the Cash Collateral Motion, as it will not have the authority to make necessary payments in the ordinary course of its business. Similarly, the Employee Motion addresses issues critical to ensuring a stable relationship with Debtor's employees as Debtor enters bankruptcy, without which Debtor may not be able to operate effectively. The Cash Management Motion requests relief necessary for Debtor to continue making authorized payments and operating its business without disruption. The Insurance Motion and the Taxes Motion likewise request relief necessary to maintaining Debtor's operations on a postpetition basis without taking unnecessary risks or jeopardizing the stability of the Case. In addition, the Schedules Motion and the DRC Application request relief regarding administrative requirements that must be resolved quickly in order for Debtor's Case to run smoothly, without which the Case may suffer logistical or administrative issues. Thus, all of the First Day Motions necessitate expedited, emergency hearings.

**II. Debtor's Proposed Notice of First Day Motions Should Be Approved Because Such Notice Provides Adequate and Sufficient Notice to All Interested Parties.**

14. Debtor proposes to serve copies of this Motion, the First Day Motions and notice of the expedited hearing, subject to entry of an order of this Court granting this Motion, substantially in the form attached hereto as Exhibit B and incorporated herein by reference,

through the Court's ECF notification system on all parties receiving electronic notice in this Case, as well as via overnight mail, electronic mail, and/or facsimile (to the extent available) on the following parties:

- (a) The Office of the United States Trustee for the Southern District of Ohio ("*U.S. Trustee*");
- (b) The agent for Debtor's primary secured lender group, Wells Fargo Bank, National Association, and its counsel;
- (c) Debtor's twenty (20) largest unsecured creditors;
- (d) Debtor's cash management banks affected by the Cash Management Motion (with respect to the Cash Management Motion);
- (e) Debtor's utility providers affected by the Utilities Motion (with respect to the Utilities Motion); and
- (f) Internal Revenue Service.

15. Given the exigency of the circumstances, and because adequate notice will be provided to the parties with the most significant interest in the Case, Debtor submits that the form and manner of notice proposed herein should be approved.

**III. Debtor Proposes to Shorten the Response Time and Further Proposes to Have First Day Motions Heard on an Expedited Basis.**

16. As required by Local Rule 9073-1, Debtor expressly proposes herein to shorten the response deadline for each First Day Motion to be the date and time set by the Court for hearings on the First Day Motions. Debtor further expressly proposes that the Court set such hearings on an expedited basis for the first practical date available to the Court.

**NOTICE**

17. As referenced above, notice of this Motion has been provided to the following parties or, in lieu thereof, to their counsel, if known: (a) U.S. Trustee; (b) Debtor's twenty (20) largest unsecured creditors; (c) the agent for Debtor's primary secured lender group, Wells Fargo

Bank, National Association; and (d) the additional parties set forth above. Debtor respectfully submits that such notice is appropriate under the circumstances and no other or further notice need be given.

**REQUEST FOR WAIVER OF MEMORANDUM IN SUPPORT**

18. Debtor requests that the Court deem the contents of this Motion to be sufficient for purposes of satisfying the memorandum in support of Local Rule 9013-1(a). The relief requested in the Motion raises no novel issues of law.

WHEREFORE Debtor respectfully requests that the Court enter an order, substantially in the form attached hereto as Exhibit A, (i) scheduling expedited hearings on the First Day Motions; (ii) approving the form and manner of notice thereof as attached hereto as Exhibit B; (iii) finding service of notice in the manner described herein to be sufficient and adequate such that no further notice need be given; and (iv) granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: May 1, 2018

Respectfully submitted,

/s/ Thomas R. Allen

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J. Matthew Fisher (0067192)  
Erin L. Gapinski (0084984)  
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*Proposed Counsel for Debtor and  
Debtor in Possession, AcuSport Corporation*



**EXHIBIT A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re: ) Chapter 11  
 )  
AcuSport Corporation, ) Case No. 18-52736  
 )  
Debtor. ) Honorable John E. Hoffman, Jr.

**ORDER SCHEDULING EXPEDITED HEARINGS ON FIRST DAY MOTIONS AND  
APPROVING THE FORM AND MANNER OF NOTICE THEREOF**  
**[RELATED TO DOC. NO. X]**

Upon the motion (the “*Motion*”)<sup>1</sup> of AcuSport Corporation, the debtor and debtor in possession (“*Debtor*”) in this chapter 11 case (the “*Case*”), for entry of an order (this “*Order*”), pursuant to section 105 of title 11 of the United States Code (the “*Bankruptcy Code*”) and Rule 9073-1 of the Local Rules Bankruptcy Rules for the Southern District of Ohio (the “*Local Rules*”), scheduling expedited hearings on first day motions and approving the form and manner

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<sup>1</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

of notice thereof [Docket No. X]; and upon consideration of the Flanagan Declaration and the entire record of this Case; and it appearing that the Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 1334 and 157; and it appearing that the Motion is a core matter pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that due and adequate notice of the Motion has been given under the circumstances, and that no other or further notice need be given; and it appearing that the relief requested in the Motion is in the best interests of Debtor's estate, its creditors, and other parties in interest; and after due deliberation, and good and sufficient cause appearing therefore,

IT IS ORDERED that:

1. The Motion is granted.
2. The First Day Motions shall be heard on \_\_\_\_\_, \_\_\_\_\_, 2018 at :-:0 \_\_.m. in Courtroom \_\_ at the United States Bankruptcy Court, 170 North High Street, Columbus, Ohio 43215.
3. Debtor's form and manner of notice of the expedited hearings on the First Day Motions as described in the Motion is hereby approved.
4. This Court shall retain jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Order.

IT IS SO ORDERED.

Submitted By:

/s/ Thomas R. Allen

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J. Matthew Fisher (0067192)  
Erin L. Gapinski (0084984)  
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*Proposed Counsel for Debtor and  
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**EXHIBIT B**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re: ) Chapter 11  
)  
AcuSport Corporation, ) Case No. 18-52736  
)  
Debtor. ) Honorable John E. Hoffman, Jr.

**NOTICE OF EMERGENCY HEARINGS ON  
CERTAIN FIRST DAY MOTIONS AND APPLICATIONS**

PLEASE TAKE NOTICE THAT on May 1, 2018, AcuSport Corporation, the debtor and debtor in possession (“**Debtor**”) in this chapter 11 case (the “**Case**”), filed and served a *Motion for an Order (II) Scheduling Expedited Hearings on Certain First Day Motions and Applications and (II) Approving the Form and Manner of Notice Thereof* (the “**Motion**”). The Motion requests that the Court set emergency hearings with respect to the following motions and applications (the “**First Day Motions**”):

- (a) Motion For An Order Extending Debtor’s Time To File Schedules Of Assets And Liabilities And Statement Of Financial Affairs [Docket No. 8];
- (b) Motion For Authority To Continue Use of Existing Bank Accounts, Business Forms, Cash Management System, And For Waiver Of Investment Guidelines [Docket No. 9];
- (c) Motion For An Order (I) Authorizing Debtor To (A) Pay Prepetition Employee Wages, Salaries, And Other Compensation, (B) Reimburse Prepetition Employee Business Expenses, (C) Pay Prepetition Payroll Taxes And Benefits For Which Payroll Deductions Were Made, (D) Make Prepetition Contributions And Pay Prepetition Benefits Under Employee Benefit Programs, And (E) Pay Related Costs And Expenses; And (II) Directing Financial Institutions To Honor And Process Checks And Transfers Related To Such Relief [Docket No. 10];
- (d) Motion For An Order Authorizing Debtor To Pay Certain Prepetition Taxes And Fees [Docket No. 11];
- (e) Motion For An Order Authorizing Debtor (I) To Perform Obligations Necessary To Maintain Insurance Coverage And (II) To Enter Into New Insurance Coverage As Needed [Docket No. 13];

- (f) Motion For An Order (I) Prohibiting Utilities From Altering, Refusing, Or Discontinuing Services To Debtor And (II) Establishing Procedures For Determining Requests For Additional Adequate Assurance [Docket No. 14];
- (g) Debtor's Application For An Order Authorizing Debtor To Employ And Retain Donlin, Recano & Company, Inc. As Notice, Claims And Solicitation Agent, Effective *Nunc Pro Tunc* To The Petition Date [Docket No. 15]; and
- (h) Motion For Interim And Final Orders (I) Authorizing Debtor To Use Cash Collateral; (II) Authorizing Debtor To Enter Into A Standby Postpetition Financing Facility; (III) Granting Adequate Protection To Prepetition Secured Creditors; (IV) Modifying The Automatic Stay; And (V) Scheduling And Approving The Form And Method Of Notice Of Final Hearing [Docket No. 16].

Expedited hearings on the First Day Motions have been set for \_\_\_\_\_, \_\_\_\_\_, 2018 at \_\_\_\_:-0 -.m. in Courtroom \_\_\_\_ in the United States Bankruptcy Court at 170 North High Street, Columbus, Ohio 43215.

**YOUR RIGHTS MAY BE AFFECTED. Accordingly, you are advised to read this Notice, and accompanying documents, carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult with one in connection with this Case.**

If you are opposed to the relief sought in the First Day Motions, or if you want the Court to consider your position with respect to any of the First Day Motions, you must attend the Hearings and, at or before the Hearings, you must file with the Court a written response that explains your position. You may send any such response to:

Clerk  
United States Bankruptcy Court  
170 North High Street  
Columbus, Ohio 43215

If you have an attorney, your attorney can file a response for you by using the Court's ECF system.

If you submit your response to the Court for filing, it must be delivered early enough to ensure that the Court and counsel will receive your response on or before the expedited hearing date stated above.

In addition, you must serve copies of your response on the parties listed on the attached certificate of service, as well as the undersigned counsel either by (1) the Court's ECF system; (2) the fax number below; or (3) regular U.S. mail to:

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If you or your attorney do not take the steps set forth and described above, the Court may determine you do not oppose the relief sought in Debtor's First Day Motions and the Court may enter orders granting the relief requested by Debtor in the First Day Motions without further notice or hearing.



Dated: May1, 2018

/s/ Thomas R. Allen

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