

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:

CAFE HOLDINGS CORP., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-\_\_\_\_ (\_\_\_)

(Joint Administration Requested)

**MOTION OF DEBTORS FOR AN EMERGENCY HEARING ON SELECTED FIRST  
DAY MOTIONS AND MEMORANDUM IN SUPPORT OF MOTION**

The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), hereby file this motion (the “**Motion**”) with this Court pursuant to Rule 9075-1 of the Local Rules for the United States Bankruptcy Court for the District of South Carolina (the “**Local Rules**”) seeking an emergency hearing on less than the required 14 or 21 days’ notice on the following motions filed simultaneously herewith (together, the “**First Day Motions**”):

- (i) Motion for Order Designating the Debtors’ chapter 11 cases as Complex chapter 11 cases Pursuant to Local Rule 2081-2;
- (ii) Motion for Order Directing the Joint Administration of the Debtors’ chapter 11 cases;
- (iii) Motion for Order (A) Authorizing the Debtors to Pay and Honor Certain Prepetition Wages, Benefits and other Compensation Obligations; and (B) Authorizing Financial Institutions to Honor and Process Checks and Transfers Related to Such Obligations;
- (iv) Motion for an Interim and Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 (I) Approving Post-petition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (VI) Scheduling a Final Hearing;

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<sup>1</sup> The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Cafe Holdings Corp. (7910); Cafe Enterprises, Inc. (4946); CE Sportz LLC (2009); and CES Gastonia LLC (0863). The location of the Debtors’ corporate headquarters is 4324 Wade Hampton Blvd., Suite B, Taylors, South Carolina 29687.

- (v) Motion for Order (I) Authorizing the (A) Continued use of Debtors' Cash Management System and (B) Use of Existing Bank Accounts and Business Forms; (II) Authorizing Payments of Prepetition Costs and Fees Associated with Customer Credit and Debit Card Transactions; (III) Waiving the Requirements of Section 345(B) of the Bankruptcy Code on an Interim Basis; and (IV) Granting Certain Related Relief;
- (vi) Motion for Order (I) Authorizing the Debtors (A) to Continue Insurance Programs and Surety Bond Program Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto and (B) Renew, Supplement, or Purchase New Insurance Policies and (II) Granting Related Relief;
- (vii) Motion for Order Authorizing Debtors to Honor Prepetition Obligations to Customers and Otherwise Continue Customer Programs in the Ordinary Course of Business and Granting Related Relief;
- (viii) Motion for Order (I) Authorizing Payment of Certain Prepetition Taxes and Fees and (II) Authorizing Financial Institutions to Process and Cash Related Checks and Transfers;
- (ix) Motion for Order (I) Authorizing the Debtors to Pay Certain Prepetition Claims (A) Arising Under the Perishable Agricultural Commodities Act and Similar Trust Fund Statutes, (B) of Other Lien Claimants, and (C) of Certain Critical Vendors and (II) Granting Certain Related Relief;
- (x) Motion for Order (I) Prohibiting Utility Providers from Altering, Refusing, or Discontinuing Services, (II) Deeming Utility Providers Adequately Assured of Payment, (III) Establishing Procedures for Determining Additional Adequate Assurance of Payment, and (IV) Granting Related Relief;
- (xi) Motion for Order Authorizing the Debtors to (I) Prepare a Consolidated List of Creditors in Lieu of a Mailing Matrix, (II) File a Consolidated List of the Thirty Largest Unsecured Creditors, (III) Mail Initial Notices, and (IV) Shorten the Mailing Matrix;
- (xii) Motion for an Order, Pursuant to Sections 105(a) and 521 of the Bankruptcy Code and Bankruptcy Rule 1007, for Extension of Time to File Schedules and Statements of Financial Affairs; and
- (xiii) Application for Entry of an Order Authorizing the Debtors to Employ and Retain Donlin Recano as Claims and Noticing Agent, Effective *Nunc Pro Tunc* to the Petition Date.

The Debtors state in support of the Motion as follows:

1. The Debtors believe there is an urgent need for the First Day Motions to be heard on an expedited basis. The Debtors will suffer irreparable harm if the First Day Motions are not heard by the Court on an expedited basis.

2. Without immediate relief as requested in the First Day Motions, the Debtors will be unable to continue to purchase goods, pay employees, and operate their restaurants resulting in a significant loss to creditors, employees, and the communities in which the Debtors do business.

More specifically:

- a. The motion regarding payment of wages and salaries and continuation of benefits is critical to the Debtors' operations to insure continued payment to employees and continuation of benefits, without which employees will likely seek alternative employment immediately.
- b. The motion to approve DIP financing is critical to the Debtors' ability to operate post-petition and is central to the Debtors' reorganization effort. Without immediate access to financing and use of cash collateral, the Debtors will be unable to purchase inventory, pay employees or pay post-petition expenses, operate their business, or otherwise preserve the value of their business.
- c. The motion for maintenance of the existing corporate bank accounts and cash management system is critical to allow the Debtors to continue to process all operational payments and conduct their business affairs in an uninterrupted manner immediately after the bankruptcy filing.
- d. The motion to pay the Debtors' lienholders and critical vendors is vital to the Debtors' reorganization efforts as the Debtors seek to maintain a safe and healthy work and customer environment and to and replenish supplies at its restaurants for continued sales. Any delay or inability to satisfy certain lienholder or critical vendor claims could cause immediate and irreparable harm to the Debtors' business, thereby reducing recoveries for all stakeholders.
- e. The Debtors' motion for authority to honor its customer incentive programs is a vital component in the to the Debtors' reorganization efforts based on maintaining continuing customer loyalty despite the bankruptcy filing.
- f. The motion to prohibit utility companies from disconnecting utility service is essential to maintain electrical, gas and other utility services at the Debtors' locations immediately after the bankruptcy filing.

- g. The motion for authority to prepare a consolidated list of creditors in lieu of a mailing matrix, to file a consolidated list of the 30 largest unsecured creditors, to mail initial notices, and shorten the mailing matrix is necessary to ease the burden of administration and reduce expenses of the cases on the Debtors from the first days of this case.
- h. The motion for additional time to file schedules and statements is key in order to permit the Debtors to concentrate during the critical early days of this case on ongoing operations and finances and file more accurate schedules and statements.
- i. The application to retain Donlin Recano as claims and noticing agent is not only required pursuant to the Local Rules, but is necessary to enable the Debtors to effect service upon all affected parties in a timely manner.

3. For the reasons set forth above, the Debtors believe an expedited hearing should be granted on the First Day Motions and that the proposed relief requested in the First Day Motions will benefit the Debtors' creditors by facilitating an orderly transition into bankruptcy.

4. The Debtors respectfully request that the expedited hearing be scheduled on the afternoon of **Monday, November 19, 2018** or as soon thereafter as possible in order to prevent irreparable harm to the Debtors.

5. Notice of this motion has been provided to the following parties: (i) the Office of the United States Trustee for the District of South Carolina; (ii) the Office of the United States Attorney General for the District of South Carolina; (iii) the Internal Revenue Service; (iv) Atalaya Administrative LLC; (v) ACM Fatz VII LLC; (vi) Midtown Madison Management LLC; (vii) Shrayne Capital, LLC; (viii) Benefit Street Partners; (ix) Milestone Partners; (x) Old Mill Stream, LLC; (xi) Triangle Mezzanine Fund LLLP; (xii) Sysco; (xiii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis; (xiv) all parties who, as of the filing of this motion, have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002; and (xv) all applicable government agencies to the extent required by the Bankruptcy Rules and the Local Rules. Additionally, notice of this motion, as well as copies of

the relevant First Day Motions, have been provided to the parties directly affected by each of the First Day Motions. The Debtors will file a certificate of service detailing the service parties for this motion as well as each of the First Day Motions prior to the expedited hearing on this motion. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request that this Court enter an Order granting an expedited hearing on the First Day Motions set forth herein and such other and further relief as is just.

November 15, 2018

**McNAIR LAW FIRM, P.A.**

/s/ Michael H. Weaver

Michael H. Weaver (S.C. Dist. Ct. ID # 9847)

Robin C. Stanton (S.C. Dist. Ct. ID # 7438)

Weyman C. Carter (S.C. Dist. Ct. ID # 5218)

1221 Main Street, 18<sup>th</sup> Floor

Post Office Box 11390

Columbia, South Carolina 29211

Tel: (803) 799-9800

Fax: (803) 753-3277

mweaver@mcnair.net

rstanton@mcnair.net

wcarter@mcnair.net

*Proposed Counsel to the Debtors and  
Debtors in Possession*

- AND -

**HAYNES AND BOONE, LLP**

/s/ Ian T. Peck

Ian T. Peck (*pro hac vice* admission pending) (TX Bar No. 24013306)

J. Frasher Murphy (*pro hac vice* admission pending) (TX Bar No. 24013214)

David L. Staab (*pro hac vice* admission pending) (TX Bar No. 24093194)

2323 Victory Avenue, Suite 700

Dallas, Texas 75219

Tel: (214) 651-5000

Fax: (214) 651-5940

Email: [ian.peck@haynesboone.com](mailto:ian.peck@haynesboone.com)

Email: [frasher.murphy@haynesboone.com](mailto:frasher.murphy@haynesboone.com)

Email: [david.staab@haynesboone.com](mailto:david.staab@haynesboone.com)

*Proposed Counsel for the Debtors and Debtors in Possession*