

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

KLAUSNER LUMBER ONE LLC,

Debtor.¹

Chapter 11

Case No. 20-11033 (KBO)

Re: D.I. 767, 768, 769, 900, 901, 902

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT, (II) ESTABLISHING
PROCEDURES FOR THE SOLICITATION AND TABULATION OF VOTES TO
ACCEPT OR REJECT THE JOINT PLAN PROPOSED BY THE DEBTOR AND
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, (III) APPROVING
THE FORM OF BALLOT AND SOLICITATION MATERIALS,
(IV) ESTABLISHING THE VOTING RECORD DATE, (V) FIXING THE DATE,
TIME, AND PLACE FOR THE CONFIRMATION HEARING AND THE
DEADLINE FOR FILING OBJECTIONS THERETO, AND
(VI) APPROVING RELATED NOTICE PROCEDURES**

Upon consideration of the *Motion of Debtor and the Official Committee of Unsecured Creditors for Entry of an Order (I) Approving the Disclosure Statement, (II) Establishing Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Joint Plan Proposed by the Debtor and the Official Committee of Unsecured Creditors, (III) Approving the Form of Ballot and Solicitation Materials, (IV) Establishing the Voting Record Date, (V) Fixing the Date, Time, and Place for the Confirmation Hearing and the Deadline for Filing Objections Thereto, and (VI) Approving Related Notice Procedures [D.I. 769]* as modified by the *Notice of Filing of Revised (1) Order (I) Approving the Disclosure Statement, (II) Establishing Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Joint Plan Proposed by the Debtor and the Official Committee of Unsecured Creditors, (III) Approving the Form of Ballot and Solicitation Materials, (IV) Establishing the Voting Record Date, (V) Fixing the Date, Time,*

¹ The last four digits of the Debtor's federal EIN are 9109. The Debtor's mailing address is Klausner Lumber One LLC, P.O. Box 878, Middleburg, VA 20118.

and Place for the Confirmation Hearing and the Deadline for Filing Objections Thereto, and (VI) Approving Related Notice Procedures; and (2) Certain Exhibits Thereto filed on May 17, 2021 and the further revision filed on May 19, 2021 (collectively, the “Motion”);² and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of the Motion and the requested relief being a core proceeding that the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and proper notice of the Motion and opportunity for a hearing on the Motion having been given to the parties listed therein, and it appearing that no other or further notice need be provided; and opportunity for a hearing on the Motion having been given to the parties listed therein; and the Court having reviewed and considered the Motion and the Declarations; and the Court having the opportunity to hold a hearing on the Motion; and the *Objection to Disclosure Statement* [D.I. 829] filed by Florida Sawmills L.P. having been withdrawn; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and the Court having found that the relief requested in the Motion being in the best interests of the Debtor, its creditors, its estate, and all other parties in interest; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

THE COURT HEREBY FINDS AS FOLLOWS:

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion, as revised [D.I. 769, 902], the Disclosure Statement, as revised [D.I. 901], and the Plan, as revised [D.I. 900], as applicable.

A. The disclosure statement, as the same may be updated, supplemented, amended, and/or otherwise modified from time to time [D.I. 901] (the “Disclosure Statement”), contains “adequate information” for the *First Amended Joint Chapter 11 Plan for Klausner Lumber One LLC Proposed by the Debtor and the Official Committee of Unsecured Creditors* [D.I. 900] (the “Plan”) within the meaning of section 1125 of the Bankruptcy Code;

B. The form of ballot attached to the Motion (as revised by the notice filed on May 17, 2021 and as described at the Disclosure Statement Hearing) as Exhibit B (the “Ballot”) (i) is consistent with Official Form No.14, (ii) adequately addresses the particular needs of the Chapter 11 Case, (iii) is appropriate for the Voting Classes, and (iv) complies with Bankruptcy Rule 3017(d).

C. Ballots need not be provided to holders of Claims or Interests in the following Classes, as such Non-Voting Classes are either (i) unimpaired and are conclusively presumed to have accepted the Plan in accordance with section 1126(f) of the Bankruptcy Code or (ii) impaired but will neither retain nor receive any property under the Plan and are thus conclusively deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code:

<u>Class</u>	<u>Designation</u>	<u>Status</u>	<u>Voting Rights</u>
Class 1A	FS Secured Claims	Unimpaired	Deemed to Accept
Class 1B	Affiliate Secured Claims	Unimpaired	Deemed to Accept
Class 1 C	Other Secured Claims	Unimpaired	Deemed to Accept
Class 2	Priority	Unimpaired	Deemed to Accept
Class 8	Interests	Impaired	Deemed to Reject

D. The period during which the Proponents may solicit votes to accept or reject the Plan, as established by this Order, provides sufficient time for Claimholders in the Voting Classes to make informed decisions to accept or reject the Plan and submit their Ballots in a timely fashion.

E. The Tabulation Procedures (as defined below) for the solicitation and tabulation

of votes to accept or reject the Plan, as approved herein, provide a fair and equitable voting process and are consistent with section 1126 of the Bankruptcy Code.

F. The contents of the Solicitation Packages and the procedures for providing notice of the Disclosure Statement Hearing, the Confirmation Hearing, and the other matters set forth in the Disclosure Statement Hearing Notice and the Confirmation Notice comply with Bankruptcy Rules 2002 and 3017, Local Rule 3017-1 and, under the circumstances, constitute sufficient notice to all interested parties in accordance with Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

IT IS HEREBY FOUND AND DETERMINED THAT:

1. The relief requested in the Motion, as revised, is granted as set forth herein.
2. Any and all objections and responses to the Motion that have not been withdrawn, waived, settled, or resolved, and all reservations of rights included therein, are hereby overruled and denied on the merits and with prejudice.
3. The Disclosure Statement is hereby approved under section 1125 of the Bankruptcy Code, Bankruptcy Rule 3017, and Local Rule 3017-1.
4. The Ballot substantially in the form attached to the Motion, as revised as described at the Disclosure Statement Hearing, as Exhibit B is hereby approved.
5. In order to be counted as votes to accept or reject the Plan, all Ballots must be properly executed, completed, and delivered, by either mail, overnight courier, personal delivery, or electronic, online transmission at the website created for the Debtor's Chapter 11 Case by the Solicitation and Claims Agent, <https://www.donlinrecano.com/Clients/klo/vote>, so that they are actually received no later than 5:00 p.m. (ET) on June 24, 2021 (the "Voting Deadline"). Parties entitled to vote shall be authorized in their sole discretion to complete an electronic Ballot and

electronically sign and submit the Ballot to the Solicitation and Claims Agent. Ballots transmitted by facsimile or e-mail will not be counted.

6. The following procedures shall be utilized in tabulating the votes to accept or reject the Plan (the “Tabulation Procedures”):

- a. Unless otherwise provided in these Tabulation Procedures, a Claim will be deemed temporarily allowed for voting purposes only in an amount equal to (i) the amount of such Claim as set forth in the Debtor’s Schedules of Assets and Liabilities (including all amendments thereto, the “Schedules”) if no Proof of Claim has been timely filed in respect of such Claim or (ii) if a Proof of Claim has been timely filed in respect of such Claim, the amount set forth in such Proof of Claim.
- b. If a Claim is listed as contingent or disputed on the Schedules or in a Proof of Claim, either in whole or in part, or if no Claim amount is specified on a Proof of Claim, such Claim shall be disallowed for voting purposes; provided, however, that the non-contingent or undisputed portion, if any, of such Claim will be deemed temporarily allowed for voting purposes, subject to the other Tabulation Procedures.
- c. If a Claim is listed as unliquidated on the Schedules or in a Proof of Claim, either in whole or in part, such Claim shall be temporarily allowed solely for voting purposes in the amount of \$1.00, provided, however, that the liquidated portion, if any, of such Claim will be deemed temporarily allowed for voting purposes, subject to the other Tabulation Procedures.
- d. If the Proponents have served an objection or request for estimation as to a Claim at least ten (10) calendar days before the Voting Deadline, such Claim is temporarily disallowed for voting purposes only and not for purposes of allowance or distribution, except to the extent and manner as set forth in such objection.
- e. If a Claimholder identifies a Claim amount on its Ballot that is different than the amount otherwise calculated in accordance with the Tabulation Procedures, the Claim will be temporarily allowed for voting purposes in the lesser amount identified on such Ballot.
- f. Claimholders will not be entitled to vote Claims to the extent such Claims have been superseded and/or amended by other Claims filed by or on behalf of such Claimholders.
- g. Except as otherwise ordered by the Court, any Ballots received after the Voting

Deadline will not be counted absent the consent of the Proponents.

- h. Any Ballot that does not indicate an acceptance or rejection of the Plan, or that indicates both an acceptance and rejection of the Plan, will not be counted.
- i. Any Ballot that is returned indicating acceptance or rejection of the Plan but is unsigned will not be counted.
- j. Whenever a Claimholder casts more than one Ballot voting the same Claim prior to the Voting Deadline, only the latest-dated Ballot timely received will be deemed to reflect the voter's intent and, thus, will supersede any prior Ballots.
- k. If a Claimholder casts simultaneous duplicative Ballots that are voted inconsistently, such Ballots will not be counted.
- l. Each Claimholder will be deemed to have voted the full amount of its Claim as set forth on the Ballot.
- m. Claimholders may not split their vote within a Class; thus, each Claimholder will be required to vote all of its Claims within the Class either to accept or reject the Plan.
- n. Ballots partially rejecting and partially accepting the Plan will not be counted.
- o. An original executed Ballot is required to be submitted by the entity submitting any written Ballot. Subject to the other procedures and requirements herein, completed, executed Ballots also may be submitted via the online portal maintained by the Solicitation and Claims Agent at <https://www.donlinrecano.com/Clients/klo/vote>.
- p. Delivery of a Ballot by facsimile, telecopy, or any other electronic means shall not be valid; *provided, however*, that Ballots submitted through the online voting portal will be counted.
- q. The method of delivery of Ballots to the Solicitation and Claims Agent is at the risk of each Claimholder, and such delivery will be deemed made only when the original Ballot is actually received by the Solicitation and Claims Agent.
- r. The Proponents expressly reserve the right to amend the terms of the Plan (subject to compliance with section 1127 of the Bankruptcy Code). If the Proponents make material changes to the terms of the Plan, the Proponents will disseminate additional solicitation materials and extend the solicitation period, in each case to the extent required by law or further order of the Court.
- s. If a Ballot is executed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or other person acting in a fiduciary or

representative capacity on behalf of a Claimholder, such person will be required to indicate such capacity when signing and, at the Solicitation and Claims Agent's discretion, must submit proper evidence satisfactory to the Solicitation and Claims Agent to so act on behalf of the Claimholder.

- t. Any Claimholder who has delivered a valid Ballot voting on the Plan may withdraw such vote solely in accordance with Bankruptcy Rule 3018(a).
- u. Subject to any contrary order of the Court, the Proponents further reserve the right to waive any defects or irregularities or conditions of delivery as to any particular Ballot.
- v. Unless waived or as ordered by the Court, any defects or irregularities in connection with deliveries of Ballots must be cured by the Voting Deadline or within such time as the Court determines, and unless otherwise ordered by the Court, delivery of such Ballots will not be deemed to have been made until such irregularities have been cured or waived.
- w. Neither the Debtor, the Committee nor any other person or entity, will be under any duty to provide notification of defects or irregularities with respect to deliveries of Ballots nor will any of them incur any liabilities for failure to provide such notification.

7. Upon completion of the balloting, the Solicitation and Claims Agent shall certify the amount and number of Allowed Claims in the Voting Classes accepting or rejecting the Plan. The Debtor shall cause such certification to be filed with the Court no later than June 28, 2021 at 12:00 p.m. (ET).

8. If any Claimholder seeks to challenge the allowance of its Claim for voting purposes in accordance with the Tabulation Procedures, such Claimholder must file a motion, pursuant to Bankruptcy Rule 3018(a), for an order temporarily allowing its Claim in a different amount or classification for purposes of voting to accept or reject the Plan (a "Rule 3018 Motion") and serve the Rule 3018 Motion on the Proponents so that it is received no later than **4:00 p.m. (prevailing Eastern Time) on the fifth calendar day after the later of (a) service of the Confirmation Notice and (b) service of notice of an objection, if any, to such Claim.**

Any Ballot submitted by a Claimholder that files a Rule 3018 Motion shall be counted solely in accordance with the Tabulation Procedures and the other applicable provisions of this Order unless and until the underlying Claim or Interest is temporarily allowed by the Court for voting purposes in a different amount, after notice and a hearing.

9. The Confirmation Hearing is hereby scheduled for **July 1, 2021 at 9:30 a.m. (prevailing Eastern Time) or such other time as the Court may provide.** The Confirmation Hearing may be continued from time to time by the Proponents without further notice other than by (a) announcing the adjourned date(s) at the Confirmation Hearing (or any continued hearing) or (b) filing a notice with the Court.

10. Objections to confirmation of the Plan on any ground, including adequacy of the disclosures therein, if any, must (a) be in writing and (b) be filed with the Court and served on (i) counsel to the Debtor, (A) Morris, Nichols, Arsht & Tunnell LLP, 1201 North Market Street, P.O. Box 1347, Wilmington, DE 19899 (Attention: Robert J. Dehney, Esq., Daniel Butz, Esq. and Nader Amer, Esq.), and (B) Westerman Ball Ederer Miller Zucker & Sharfstein, LLP (Attn: Thomas A. Draghi, Esq. and Alison Ladd, Esq.), (ii) counsel to the Committee (A) Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801; (Attn.: Eric J. Monzo, Esq. and Brya M. Keilson, Esq.), (B) Faegre Drinker Biddle & Reath LLP, 1177 Avenue of the Americas, 41st Floor, New York, NY 10036 (Attn: Richard J. Bernard), and (C) Foley & Lardner LLP, 90 Park Avenue, New York, NY 10016 (Attn.: Alissa M. Nann, Esq.), and (iii) the Office of the U.S. Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, DE 19801 (Attn.: Rosa Sierra, Esq.), so that they are received **no later than 4:00 p.m. (prevailing Eastern Time) on June 24, 2021** (the “**Confirmation Objection Deadline**”). The Proponents shall, if they deem necessary in their discretion, file a reply to any such objections

and/or any affidavits or declarations in support of approval of the Plan by **no later than 12:00 p.m. (prevailing Eastern Time) June 28, 2021** (or three (3) calendar days prior to the date of any adjourned Confirmation Hearing).

11. The Confirmation Notice, in substantially the form attached to the Motion as Exhibit D, is approved. The Debtor shall serve the Confirmation Notice on (a) the U.S. Trustee, (b) the Non-Voting Classes, (c) all entities that are party to executory contracts and unexpired leases with the Debtor, (d) all entities that are party to litigation with the Debtor, (e) all current and former employees, directors, and officers (to the extent that contact information for former employees, directors, and officers is available in the Debtor's records), (f) all regulatory authorities that regulate the Debtor's businesses, (g) the Office of the Attorney General for the State of Delaware, (h) the office of the attorney general for each state in which the Debtor maintains or conducts business, (i) the District Director of the Internal Revenue Service for the District of Delaware, (j) all other taxing authorities for the jurisdictions in which the Debtor maintains or conducts business, and (k) the Securities and Exchange Commission, no later than five (5) Business Days after the entry of this Order.

12. Within seven (7) Business Days of the entry of this Order, the Debtor shall cause the Confirmation Notice, as may be amended for ease of publication, to be published once in the national edition of *USA Today*, the *Suwannee (Florida) Democrat*, and the *Gainesville (Florida) Sun*. Publication of the Confirmation Notice as described in this Order conforms to the requirements of Bankruptcy Rules 2002(l) and 9008, and is reasonably calculated to provide notice to any affected party and afford the affected party the opportunity to exercise any rights affected by the Motion, this Order, and the Plan.

13. Pursuant to Bankruptcy Rule 3017(c), the date of the Disclosure Statement

Hearing shall be the record date for purposes of determining which holders of Claims are entitled to receive Solicitation Packages and, where applicable, vote on the Plan (the “Record Date”).

14. With respect to any transferred Claim, the transferee shall only be entitled to receive and cast a Ballot on account of such transferred Claim if (a) all actions necessary to effect the transfer of the Claim pursuant to Bankruptcy Rule 3001(e) have been completed by the Record Date (including, without limitation, the passage of any applicable objection period) or (b) the transferee files, no later than the Record Date, (i) the documentation required by Bankruptcy Rule 3001(e) to evidence the transfer and (ii) a sworn statement of the transferor supporting the validity of the transfer.

15. The Solicitation and Claims Agent shall mail Solicitation Packages no later than five (5) Business Days after the entry of this Order to the Voting Classes containing copies of (a) the Confirmation Notice, (b) the Disclosure Statement, (c) the Plan, (d) this Order (without exhibits), (e) a Ballot, and (f) any other documents and materials that the Proponents deem appropriate.

16. The Proponents shall not be required to transmit Solicitation Packages to holders of Claims in Classes 1A, 1B, 1C, 2 and 8 (collectively, the “Non-Voting Classes”) under the Plan. The Debtor shall mail or caused to be mailed by first-class mail to holders of Claims in the Non-Voting Classes a copy of the Notice of Non-Voting Status, substantially in the form attached to the Motion, as revised, as Exhibit C, no later than five (5) Business Days after the entry of this Order.

17. The Proponents are authorized to make non-substantive and ministerial changes to any documents in the Solicitation Package without further approval of the Court prior to its dissemination, including, without limitation, changes to correct typographical and grammatical

errors and to make conforming changes to the Disclosure Statement and the Plan and any other materials included in the Solicitation Package prior to their distribution.

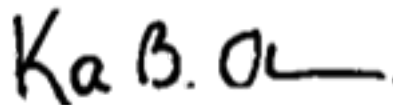
18. The Proponents shall file the Plan Supplement by June 17, 2021, provided that the Proponents may amend, supplement, or otherwise modify the Plan Supplement prior to the Confirmation Hearing and/or in accordance with the Plan.

19. The Proponents are authorized to take or refrain from taking any action necessary or appropriate to implement the terms of, and the relief granted in, this Order without seeking further order of the Court.

20. The Court shall retain jurisdiction to hear and determined all matters arising from or related to the interpretation, implementation, and enforcement of this Order.

21. This Order is effective immediately upon entry.

Dated: May 20th, 2021
Wilmington, Delaware


KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE