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Proposed Counsel to the Official Committee of Unsecured Creditors

Proposed Local Counsel to the Official Committee of Unsecured Creditors

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION**

In re:)	
)	Chapter 11
ENVIVA INC., <i>et al.</i> ,)	Case No. 24-10453 (BFK)
)	
Debtors. ¹)	(Jointly Administered)
)	

**MOTION FOR AUTHORITY TO FILE UNDER SEAL (I) PORTIONS OF
 THE SUPPLEMENTAL OBJECTION; (II) PORTIONS OF THE DECLARATION OF
 MIKE GENEREUX ; AND (III) CERTAIN EXHIBITS SUBMITTED IN
SUPPORT OF THE SUPPLEMENTAL OBJECTION UNDER SEAL**

The Official Committee of Unsecured Creditors (the “Committee”) of Enviva Inc., *et al.* (collectively, the “Debtors”) moves (the “Motion to Seal”), pursuant to section 107(b) of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the Committee to file under seal (i) portions of the *Supplemental Objection of the Official Committee of Unsecured Creditors to Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority*

¹ Due to the large number of Debtors in these jointly administered chapter 11 cases, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://kccllc.net/enviva>. The location of the Debtors’ service address is: 7272 Wisconsin Avenue, Suite 1800, Bethesda, MD 20814.



Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Docket No. ____] (the “Supplemental Objection”), (ii) certain exhibits appended thereto (the “Sealed Exhibits”); and (iii) certain portions of the *Declaration of Mike Genereux in Support of the Supplemental Objection of the Official Committee of Unsecured Creditors to the Debtors’ DIP Motion* (the “Genereux Declaration”), which are being submitted to the Court for *in camera* review simultaneously herewith (the redacted portions of the Genereux Declaration, the redacted portions of the Supplemental Objection, and the Sealed Exhibits, collectively, the “Sealed Material”). In support of the Motion to Seal, the Committee respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of Virginia (the “Court”) has jurisdiction over this Motion to Seal pursuant to 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory and rule predicates for the relief requested herein are Bankruptcy Code section 107(c) and Bankruptcy Rule 9018.

BACKGROUND

4. On March 12, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors continue to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No request has been made for the appointment of a trustee or an examiner.

5. On March 25, 2024, the Office of the United States Trustee for the Eastern District of Virginia (the “U.S. Trustee”) appointed the Committee pursuant to Bankruptcy Code section 1102 [Docket No. 172].

RELIEF REQUESTED

6. The Committee seeks authority to file under seal the Sealed Exhibits, which consist of certain documents received from the Debtors and designated by the Debtors as confidential or professional eyes only.

BASIS FOR RELIEF

7. Section 107(b) of the Bankruptcy Code states, “On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may— (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information. . . .” 11 U.S.C. § 107(b).

8. In addition, Rule 9018 of the Bankruptcy Rules provides, in relevant part, “On motion or its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information. . . .” Fed. R. Bankr. P. 9018.

9. Each of the documents attached to the Supplemental Objection were produced by the Debtors and designated by the Debtors as confidential. Because the Debtors have deemed these documents to contain confidential research, development, or commercial information within the meaning of section 107(b)(1) of the Bankruptcy Code and Rule 9018(1) of the Bankruptcy Rules, the Committee submits that these documents are properly filed under seal. Further, the

portions of the Supplemental Objection and Genereux Declaration the Committee seeks to seal reference either the Sealed Exhibits or confidential deposition testimony.

10. For the avoidance of doubt the Committee takes no position on the merits of the Debtors' confidentiality designations and reserves all rights to challenge them at a later date.

WAIVER OF MEMORANDUM OF LAW

11. This Motion includes citations to the applicable authorities and a discussion of their relevance and application to the facts herein. Accordingly, the Committee respectfully requests that the Court waive the requirement that a memorandum be filed in support of the Motion.

CONCLUSION

WHEREFORE, the Committee requests that the Court (a) enter an order, substantially in the form annexed hereto as **Exhibit A**, authorizing the Committee to file under seal the Sealed Material, and (b) provide the Committee with such other and further relief as the Court may deem just, proper and equitable.

Dated: April 29, 2024
Tysons, Virginia

Respectfully submitted,

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**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION**

In re:)	
)	Chapter 11
ENVIVA INC., <i>et al.</i> ,)	Case No. 24-10453 (BFK)
)	
Debtors. ¹)	(Jointly Administered)
)	

**ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF
 UNSECURED CREDITORS OF ENVIVA INC., ET AL. TO FILE
 (I) PORTIONS OF THE SUPPLEMENTAL OBJECTION; (II) PORTIONS OF THE
 DECLARATION OF MIKE GENEREUX; AND (III) CERTAIN EXHIBITS
SUBMITTED IN SUPPORT OF THE SUPPLEMENTAL OBJECTION UNDER SEAL**

Upon the *Motion for Authority to File Under Seal (I) Portions of the Supplemental Objection; (II) Portions of the Declaration of Mike Genereux; and (III) Certain Exhibits Submitted in Support of the Supplemental Objection* (the “Motion to Seal”) filed by the Official Committee of Unsecured Creditors (the “Committee”) of Enviva Inc., *et al.* (collectively, the “Debtors”) for entry of an order, pursuant to section 107(b) of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), authorizing the Committee to file under seal (i) portions of the *Supplemental Objection of the Official Committee of Unsecured Creditors to Debtors’ Motion for Entry of Interim and Final*

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Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [Docket No. ____] (the “Supplemental Objection”), (ii) certain exhibits appended thereto (the “Sealed Exhibits”); and (iii) certain portions of the *Declaration of Mike Genereux in Support of the Supplemental Objection of the Official Committee of Unsecured Creditors to the Debtors’ DIP Motion* (the “Genereux Declaration”), which are being submitted to the Court for *in camera* review simultaneously herewith (the redacted portions of the Genereux Declaration, the redacted portions of the Supplemental Objection, and the Sealed Exhibits, collectively, the “Sealed Material”); and it appearing that this Court has jurisdiction over this matter by virtue of the provisions of 28 U.S.C. §§ 1334(a) and 157(a) and that venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409; and finding that this Court, pursuant to section 107(c) of the Bankruptcy Code and Rule 9018 of the Bankruptcy Rules, has the authority to grant the relief requested in the Motion to Seal; and further finding that such relief is appropriate, it is hereby **ORDERED**:

1. The Motion to Seal is **GRANTED**.
2. The Sealed Material shall be filed under seal, and the same hereby is sealed.
3. Any hearing on the Motion to Seal, if such is required, shall be sealed.
4. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
5. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order

Enter: / /

Brian F. Kenney, Judge
United States Bankruptcy Court for the Eastern
District of Virginia

WE ASK FOR THIS:

/s/ Kristen E. Burgers

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*Proposed Lead Counsel to the Official
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CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Kristen E. Burgers _____