

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	)	Case No. 10-50494
	)	
FAIR FINANCE COMPANY	)	Chapter 7
	)	
Debtor.	)	Judge Marilyn Shea-Stonum
	)	

**APPLICATION FOR ORDER AUTHORIZING THE EMPLOYMENT AND  
RETENTION OF SKODA, MINOTTI & CO. TO REPLACE HOWARD L. KLEIN CO.  
AS FORENSIC ACCOUNTANT TO THE TRUSTEE**

Brian A. Bash (“**Trustee**”) hereby moves the Court for entry of an order pursuant to sections 327(a), 328(a) and 1103 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2014, 2016 and 5002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing the employment and retention of Skoda, Minotti & Co., Certified Public Accountants, an Ohio corporation (“**Skoda Minotti**”) to replace Howard L. Klein Co. as forensic accountant for the Trustee. In support of this Application, the Trustee respectfully states as follows:

1. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 327(a), 328 and 1103 of the Bankruptcy Code.

2. On February 8, 2010 (the “**Petition Date**”), creditor-investors filed a petition for involuntary bankruptcy against the debtor in this case, Fair Finance Company (the “**Debtor**”).

3. On the Petition Date, the creditor-investors also filed an “Emergency Motion to Appoint Interim Trustee” (Docket No. 2) alleging that a trustee was needed to oversee the operations of the Debtor because (i) the Debtor had failed to make timely payments on its debts,



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including failing to redeem matured certificates and failing to pay interest on unmatured certificates; (ii) the Debtor and several affiliated companies had been raided by the Federal Bureau of Investigation in November of 2009; (iii) the Debtor has not been open to the public since the raid; and (iv) public records revealed that the Debtor had made “unusually large” loans to insiders.

4. On February 19, 2010, this Court entered an order directing the United States Trustee to appoint an interim trustee. Attorney Bash is the duly appointed, qualified and acting interim trustee in the within proceedings.

5. On February 24, 2010, the Debtor filed notice that it consents to the entry of an order for relief in this proceeding (Docket No. 35).

6. Pursuant to this Court’s Orders, dated March 23, 2010 and February 28, 2011 (Docket Nos. 67 and 341, respectively), the Trustee retained Howard L. Klein Co. to act as his forensic accountant and for services as an expert witness.

7. The Trustee has been advised that Howard Klein will be joining the accounting firm of Skoda Minotti, on or before September 1, 2013. The Trustee is further advised that Mr. Klein wishes to continue to act as the Trustee’s forensic accountant and expert witness after he joins Skoda Minotti. The Trustee would like Mr. Klein to continue in that capacity because of the experience and institutional knowledge that he has gained through his engagement in this case for over three years.

8. As part of his duty to administer and liquidate the estate for the benefit of creditors, the Trustee continues to require the assistance of a qualified forensic accountant, including for purposes of acting as an expert witness in litigation. Mr. Klein has worked thousands of hours over more than three years since this case has been pending reviewing and analyzing the records of the Debtor, and has gained valuable institutional knowledge and

conducted substantial analyses regarding the Debtor, its books and records, its operation as a Ponzi scheme, and the scores of insiders and affiliates that received funds from the Debtor. Mr. Klein also has prepared several expert reports in connection with certain pending litigation. It would be duplicative and enormously expensive to lose Mr. Klein at this stage in the case. By retaining Mr. Klein's new firm, Mr. Klein can continue in his role, and would continue to be the person primarily responsible on the new engagement with Skoda Minotti.

9. The Trustee anticipates that the scope of the engagement with Skoda Minotti would be substantially the same as the scope of the engagement with Howard L. Klein Co, and would include the following services:

- a) Assisting the Trustee in analyzing the assets and liabilities of the Debtor and identifying causes of action and other assets of the Debtor;
- b) Assisting the Trustee in recovering assets for the estate;
- c) Assisting the Trustee in determining the identities and locations of the creditors;
- d) Performing any other accounting or tax services the Trustee requires to administer the estate for the best interest of the creditors; and
- e) Serving as an expert witness for the estate.

10. The Trustee requests the appointment of Mr. Klein's new firm, Skoda Minotti, as a forensic accountant because it is experienced, and qualified, and in the trustee's experience with Mr. Klein, including this case, efficient. Mr. Howard L. Klein, who will be primarily responsible for this engagement, is a Certified Public Accountant, a Certified Fraud Examiner, and a Certified Insolvency and Restructuring Advisor, and has extensive experience in investigative accounting and reviewing the records of bankruptcy debtors. The Court's authorization to employ Skoda Minotti to act as accountant is in the best interest of the estate and of the creditors, as Skoda Minotti is experienced and qualified to render the professional accounting services needed by the Trustee.

11. Skoda Minotti maintains offices at 6685 Beta Dr., Mayfield Village, Ohio 44143.

12. The Trustee proposes that Skoda Minotti be compensated for services rendered on an hourly rate, and for expenses incurred in connection with this Chapter 7 proceeding. Skoda Minotti will permit Mr. Klein to continue to bill his time on this matter at \$275.00 per hour. Mr. Klein may utilize other personnel at Skoda Minotti when it would be in the best interest of the estate to do so based on cost and efficiency. Standard current billing rates for other professionals at Skoda Minotti are as follows:

Partner	\$355.00
Principal	\$325.00
Manager	\$212.00
Sr. Accountant	\$180.00
Staff Accountant	\$150.00

13. All of Skoda Minotti's fees and expenses will be subject to Court approval upon proper application and will be paid only upon Court order.

14. The hourly rate to be charged shall be the same as that charged in the ordinary course of business. These hourly rates normally are subject to review and revision each year.

15. As more fully set forth in the Affidavit of Robert Ranallo, attached hereto as **Exhibit A** (the "**Affidavit**"), Skoda Minotti is disinterested within the meaning of 11 U.S.C. § 101(14). Neither Howard L. Klein nor anyone else at Skoda Minotti has any connection with the Debtor. Neither is a creditor, equity security holder, insider, director, officer, or employee of the Debtor, nor has either been a director, officer or employee of the Debtor in the two years preceding the bankruptcy petition. Further, neither has an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason.

16. As set forth in the Affidavit, Skoda Minotti has connections with, and in the past represented, currently represents, and likely in the future will represent certain parties-in-interest in matters unrelated to the Debtors, the Debtors' Chapter 11 cases, or such entities' claims against or interests in the Debtors. Skoda Minotti does not hold any interest that it adverse to the estate or any class of creditors or equity security holders as a result of these connections and engagements.

17. Further, neither Howard Klein nor anyone else at Skoda Minotti is a relative by blood or marriage of any Bankruptcy Judge of the Northern District of Ohio or the United States Trustee for Region 9, and is not now nor has ever been so connected with any such Judge or the United States Trustee for Region 9 so as to render Skoda Minotti's appointment or the Court's approval of such employment as a forensic accountant and expert witness in the above-captioned matter improper.

WHEREFORE, the Trustee respectfully requests that the Court enter an Order, substantially in the form attached hereto as **Exhibit B**, authorizing the Committee to employ and retain Skoda Minotti as forensic accountant for the Trustee, and grant such further relief as is just and proper.

Date: August 22, 2013

Respectfully submitted,

/s/ Brian A. Bash

Brian A. Bash, Trustee (0000134)  
Baker & Hostetler LLP  
PNC Center  
1900 E. 9<sup>th</sup> Street, Suite 3200  
Cleveland, Ohio 44114-3482  
Telephone: 216.861.7581  
Email: BashTrustee@Bakerlaw.com

# **EXHIBIT A**

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

In Re: ) Case No. 10-50494  
)  
**Fair Finance Company** ) Judge Marilyn Shea-Stonum  
)  
) **AFFIDAVIT AND VERIFIED**  
) **STATEMENT**  
Debtor. ) **PURSUANT TO RULES 5002 AND 2014 OF**  
) **THE BANKRUPTCY RULES**  
)

The undersigned being first duly sworn and according to law, deposes and says that:

1. He makes this Verified Statement pursuant to the provisions of 11 U.S.C. Sections 327(a) and (c) of the Bankruptcy Code regarding employment of professional persons by the Trustee, and in light of the restrictions and requirements imposed thereon by Bankruptcy Rules 2014(a) and 5002.

2. Skoda, Minotti & Co., Certified Public Accountants, an Ohio Corporation (“**Skoda Minotti**”) has not received a retainer.

3. This Affidavit is to affirm to this Court that neither Skoda Minotti nor any person at Skoda Minotti is a relative by blood or marriage of any Bankruptcy Judge of the Northern District of Ohio or the United States Trustee for Region 9, and that no person at Skoda Minotti is now nor has ever been so connected with any such Judge or the United States Trustee for Region 9 as to render its appointment or the Court’s approval of such employment as a forensic accountant in the above-captioned matter improper.

4. This Affidavit is to further affirm to this Court that neither Skoda Minotti, nor any person at Skoda Minotti, has an interest materially adverse to the interest of the estate or of any

class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtor, or for any other reason. Skoda Minotti will not represent any creditor or other party in interest (other than the Trustee) in connection with this case.

5. This Affidavit is to fully disclose to the Court that to the best of his knowledge Affiant knows of no matters that might be considered by any party to create any issue or claim of conflict or lack of being a disinterested party, as related to Skoda Minotti acting as an accountant in this case and to disclose to the Court that the only fees and expenses to be paid to Skoda Minotti shall be those allowed pursuant to order of this Court.

6. This Affidavit is to further affirm that Skoda Minotti is a “disinterested person” under 11 U.S.C. §101(14).

- (a) Skoda Minotti has not represented the Debtor.
- (b) No accountant with Skoda Minotti is a creditor of the Debtor, or an insider of the Debtor, or holds a direct or indirect equity interest in the Debtor, including stock, stock warrants or a partnership interest in a debtor partnership, or has a right to acquire such an interest.
- (c) No accountant with Skoda Minotti is or has served as an officer, director or employee of the Debtor within two years before the filing of the petition.
- (d) No accountant with Skoda Minotti is in control of the Debtor or is a relative of a general partner, director, officer or person in control of the Debtor.
- (e) No accountant with Skoda Minotti is or has served as an officer, director, or employee of a financial advisor which has been engaged by the Debtor in



connection with the offer, sale, or issuance of a security of the Debtor within two years before the filing of the petition.

(f) Neither Skoda Minotti nor any accountant with Skoda Minotti has represented a financial advisor of the Debtor in connection with the offer, sale, or issuance of a security of the Debtor within three years before the filing of the petition.

(g) Neither Skoda Minotti, nor any accountant with Skoda Minotti, represents in this bankruptcy case a creditor, a holder of any equity securities of the Debtor, a general partner, a lessor, a lessee, a party to an executory contract of the Debtor, or a person otherwise adverse or potentially adverse to the Debtor or the estate.

(h) Neither Skoda Minotti nor any accountant with Skoda Minotti represents an insider of the Debtor or the Debtor's parent, subsidiary, or other affiliate.

(i) Neither Skoda Minotti nor any accountant with Skoda Minotti has been paid fees prepetition or holds a security interest, guaranty or other assurance of compensation for services performed or to be performed in this case.

(j) There is no agreement of any nature as to the sharing of any compensation to be paid to Skoda Minotti.

(k) Neither Skoda Minotti nor any accountant with Skoda Minotti has any other connection with the Debtor, creditors, the United States Trustee or any employee of that office, or any other party in interest that is materially adverse to the Debtor or the estate.

7. Skoda Minotti has the following connections or engagements, none of which relate to this case, and none of which give rise to any interest adverse to the Debtor, creditors, the United States Trustee or any employee of that office, or any other party in interest:

(a) Skoda Minotti has seven (7) clients that have or had investments with the Debtor. Skoda Minotti has not been retained to represent any of these clients in connection with this case.

(b) Skoda Minotti prepared personal tax returns for one former employee (not an officer or director) of the Debtor.

(c) Skoda Minotti and the Debtor have used common vendors, including GE Capital, Pitney Bowes Global Financial Services, and vendors for newspapers, utility services, office services and supplies, parcel service.

(d) Skoda Minotti has two former clients that are creditors of the Debtor, and one current client that was a landlord-creditor of the Debtor, whose claim was settled.

(e) Skoda Minotti is an independent member of the BDO Seidman Alliance of local and regional accounting, consulting and service firms. The BDO Seidman Alliance has hundreds of other independently-owned members in virtually every state in the country, and Puerto Rico. Each member firm in the BDO Seidman Alliance retains its distinct business identity and control over decisions affecting its clients. BGBC Partners, LLP and Somerset CPAs, P.C., who have been identified as parties or potential witnesses in one or more adversary proceedings in this case, also are members of the BDO Seidman Alliance.

8. Further, this Affidavit is to fully disclose to the Court that Skoda Minotti will charge for its expenses and its standard hourly rates for work of this nature. Mr. Klein will continue to bill his time for this matter at \$275.00 per hour. It is the practice of Skoda Minotti to utilize other personnel at lower rates when it would be in the best interest of the estate to do so base on cost and efficiency. Standard current billing rates for other professionals at Skoda Minotti are as follows:

Partner	\$355.00
Principal	\$325.00
Manager	\$212.00
Sr. Accountant	\$180.00
Staff Accountant	\$150.00

9. All fees and expenses will, of course, be subject to Court approval upon proper application and will be paid only upon Court order.

10. I will abide by Local Rule 2016-1 relating to the Guidelines for Compensation and Expense Reimbursement for Professionals.

11. I verify under penalty of perjury that the foregoing is true and correct.



Robert Ranallo  
Skoda, Minotti & Co.,  
Certified Public Accountants, an Ohio corp.  
6685 Beta Dr.  
Mayfield Village, Ohio 44143  
440-449-6800

SWORN TO BEFORE ME, and subscribed in my presence, this 22 day of August, 2013.



Notary Public



DEBORAH A. WALSH  
Notary Public, State of Ohio  
My Commission Expires October 10, 2016  
(Recorded in Lake County)

## **EXHIBIT B**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	)	Case No. 10-50494
	)	
FAIR FINANCE COMPANY	)	Chapter 7
	)	
Debtor.	)	Judge Marilyn Shea-Stonum
	)	

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF  
SKODA MINOTTI TO REPLACE HOWARD L. KLEIN CO.  
AS FORENSIC ACCOUNTANT TO THE TRUSTEE**

This matter came to be heard upon the application of the Trustee for an order authorizing him to employ Skoda, Minotti & Co., Certified Public Accountants, an Ohio corporation (“**Skoda Minotti**”) as a forensic accountant and expert witness.

Upon consideration thereof, the Court finds the Application well-taken, that the appointment of Skoda Minotti is in the best interests of the estate; that Skoda Minotti is disinterested and is qualified to act as a forensic accountant for the purposes set forth in the Application.

IT IS THEREFORE ORDERED that the Trustee's Application for Order Authorizing the Employment and Retention of Skoda Minotti to Replace Howard L. Klein Co. as Forensic Accountant to the Trustee is hereby granted.

IT IS SO ORDERED.

# # #

Submitted by:

/s/ *Brian A. Bash*

Brian A. Bash, Trustee (0000134)

Baker & Hostetler LLP

PNC Center

1900 E. 9<sup>th</sup> Street, Suite 3200

Cleveland, Ohio 44114-3482

Telephone: 216.861.7581

Email: BashTrustee@Bakerlaw.com

## **CERTIFICATE OF SERVICE**

A copy of the foregoing has been served via ECF or regular, U.S. Mail, on August 22, 2013, on the attached service list.

/s/ *Brian A. Bash*

Brian A. Bash, Trustee

## SERVICE LIST

### Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive e-mail notice/service for this case.

- Richard M Bain bain@buckleyking.com, krupa@buckleyking.com
- Stephen M Bales sbales@zieglermetzger.com, dmalloy@zieglermetzger.com
- Brian A Bash bashtrustee@bakerlaw.com, bbash@ecf.epiqsystems.com
- Brian A Bash BBash@bakerlaw.com
- John E. Bator jbator@batorlaw.com, sbator@batorlaw.com
- Kathryn A. Belfance kb@rlblp.com
- John B. Blanton jblanton@bakerlaw.com
- Kelly Burgan kborgan@bakerlaw.com
- Patrick W. Carothers pcarothers@thorpreed.com, dtomko@thorpreed.com;ghauswirth@thorpreed.com;rhotaling@thorpreed.com;jshannon@thorpreed.com
- Anthony J. Cespedes ajc1253@yahoo.com
- Michael L. Cioffi cioffi@blankrome.com
- LeGrand L Clark legrand.clark@atg.in.gov, stephanie.patrick@atg.in.gov
- Deborah A. Coleman dacoleman@hahnlaw.com, hlpcr@hahnlaw.com;mcsoulsby@hahnlaw.com;cmbeitel@hahnlaw.com
- Anthony J DeGirolamo ajdlaw@sbcglobal.net
- Daniel A DeMarco dademarco@hahnlaw.com, hlpcr@hahnlaw.com;cmbeitel@hahnlaw.com
- Rocco I. Debitetto ridebitetto@hahnlaw.com, hlpcr@hahnlaw.com
- Duriya Dhinojwala dhinojwala@ccj.com, duriya1@hotmail.com
- Michelle L. DiBartolo mdibartolo@ttmlaw.com, mldibartolo@gmail.com
- James M. Dickerson jdickerson@bgdlegal.com, bmartin@bgdlegal.com;mthompson@bgdlegal.com
- Breaden M Douthett bdouthett@bakerlaw.com, krossiter@bakerlaw.com;fairfinancedocket@bakerlaw.com
- J Douglas Drushal ddrushal@ccj.com
- Charles R. Dyas charles.dyas@btlaw.com
- Joseph Esmont jesmont@bakerlaw.com, joe.esmont@gmail.com;fairfinancedocket@bakerlaw.com
- Gregory R Farkas gfarkas@frantzward.com, dlbeatrice@frantzward.com
- Adam Lee Fletcher afletcher@bakerlaw.com
- Dov Frankel dfrankel@taftlaw.com, dwhite@taftlaw.com;docket@taftlaw.com
- Leon Friedberg lfriedberg@cpmlaw.com, knocera@cpmlaw.com;squinn@cpmlaw.com
- Ronald P. Friedberg rfriedberg@meyersroman.com, vvardon@meyersroman.com
- Marc P Gertz mpgertz@goldman-rosen.com, kls@goldman-rosen.com;kstone\_56@hotmail.com
- Harry W Greenfield bankpleadings@bucklaw.com, young@buckleyking.com;toole@buckleyking.com;heberlein@buckleyking.com
- John J Guy johnguy@neo.rr.com
- H Ritchey Hollenbaugh hrh@cpmlaw.com, knocera@cpmlaw.com;slq@cpmlaw.com
- Joseph F. Hutchinson jhutchinson@bakerlaw.com, smaxwell@bakerlaw.com;fairfinancedocket@bakerlaw.com
- Steven G Janik steven.janik@janiklaw.com
- Cynthia A Jeffrey ecfndoh@reimerlaw.com, RACJ.ecfndoh@yahoo.com
- Kenneth C Johnson kjohnson@bricker.com, rdelsignore@bricker.com
- Nathaniel R. Jones jones-n@blankrome.com
- Patrick J Keating pkeating@bdblawn.com
- Scott J. Kelly skelly@hahnlaw.com
- Suzana Krstevski Koch skoch@brouse.com, tpalcic@brouse.com;rhaupt@brouse.com
- John F Kostelnik jkostelnik@frantzward.com, dlbeatrice@frantzward.com
- David R. Krebs dkrebs@hkclawfirm.com, dadams@hkclawfirm.com
- Stuart A. Laven slaven@beneschlaw.com, docket@beneschlaw.com;mkrawczyk@beneschlaw.com;lbehra@beneschlaw.com
- James Michael Lawniczak jlawniczak@calfee.com
- Trish D. Lazich trish.lazich@ohioattorneygeneral.gov, angelique.seals@ohioattorneygeneral.gov
- Scott B. Lepene scott.lepene@thompsonhine.com, docket@thompsonhine.com,betty.ribic@thompsonhine.com,marcia.burston@thompsonhine.com
- Jeffrey M Levinson jml@jml-legal.com



- David A Looney attorney@bright.net, davelooney1@gmail.com
- Thomas R Lucchesi tlucchesi@bakerlaw.com
- Crystal L. Maluchnik crystal.maluchnik@janiklaw.com
- Grant A Mason gamason@millermast.com
- Matthew H Matheney mmatheney@tddl.com, showard@tddl.com
- Shorain L. McGhee shorain.mcghee@sbcglobal.net
- Warner Mendenhall warnermendenhall@hotmail.com, bcyecfnotify@rushpost.com
- Tarek E. Mercho tmercho@mercholegal.com
- David P. Meyer dmeyer@dmlaws.com, docket@dmlaws.com
- David Polan Meyer dmeyer@dmlaws.com
- Michael J Moran moranecf@yahoo.com, moranecf@gmail.com
- David A Mucklow davidamucklow@yahoo.com
- Steven J. Mulligan stevenmulligan@cox.net
- Maritza S. Nelson mnelson@bakerlaw.com
- Josephine S. Noble josephine.noble@ogletreedeakins.com, jennifer.mcguigan@ogletreedeakins.com
- Alexis Courtney Osburn aosburn@bakerlaw.com, fairfinancedocket@bakerlaw.com
- F. Anthony Paganelli tpaganelli@taftlaw.com
- Mark A Phillips mphillips@beneschlaw.com, docket@beneschlaw.com; lbehra@beneschlaw.com; cgreen@beneschlaw.com
- Kenneth G. Prabucki kprabucki@bakerlaw.com
- Clinton E. Preslan ndohbky@jbandr.com
- David F. Proano dproano@bakerlaw.com, fairfinancedocket@bakerlaw.com
- Stephen J Pruneski spruneski@rlblp.com
- Timothy J Richards trichards@frantzward.com, dlbeatrice@frantzward.com
- Mark Riemer mriemer@goldman-rosen.com, andreag@goldman-rosen.com
- Tim Robinson tim.robinson@dinsmore.com, lisa.geeding@dinsmore.com
- James E Rossow jim@rubin-levin.net, susan@rubin-levin.net
- Matthew J. Samsa msamsa@mcdonaldhopkins.com, docket@beneschlaw.com; cgreen@beneschlaw.com
- Rafael A Sanchez rsanchez@bgdlegal.com, lcase@bgdlegal.com
- Richard V. Singleton rsingleton@blankrome.com, kreda@blankrome.com; jhanner@blankrome.com
- Dale S Smith dsmith@frantzward.com, dlbeatrice@frantzward.com
- Michael A. Steel masteel@goldman-rosen.com, andreag@goldman-rosen.com; bstewart@goldman-rosen.com
- Rachel L. Steinlage rsteinlage@meyersroman.com, jray@meyersroman.com
- Ray H Stoess raystoess@600westmain.com
- Megan D. Stricker mnovinc@davisyoung.com, gcampbell@davisyoung.com
- Timothy M. Sullivan tim@tmslaw.net, alison@tmslaw.net; elaine@tmslaw.net; martin@tmslaw.net
- Jonathan D. Sundheimer jsundheimer@btlaw.com
- Gregory D Swope gswope@kwgd.com, mhelmick@kwgd.com
- David J. Theising dtheising@harrisonmoberly.com
- Ronald N Towne rtowne@neolaw.biz, awehener@neolaw.biz
- Vance P Truman medinaatty@yahoo.com, medinaatty@gmail.com
- United States Trustee (Registered address)@usdoj.gov
- Michael S Tucker mtucker@ulmer.com
- Nancy A Valentine navalentine@hahnlaw.com, hlpcr@hahnlaw.com; cmbeitel@hahnlaw.com
- Michael A. VanNiel mvanniel@bakerlaw.com
- Thomas C Wagner wagnert@tcwlawyers.com, wagnert@vwlawyers.com
- Wayne County Litigants ddrushal@ccj.com
- Nicholas L. White nwhite@bakerlaw.com, fairfinancedocket@bakerlaw.com
- Alicia Raina Whiting-Bozich whiting-bozich@buckleyking.com, heberlein@buckleyking.com
- Robert M Whittington robertwhittington0@gmail.com
- David E. Wright dwright@kgrlaw.com, mem@kgrlaw.com
- Lenore Kleinman ust04 Lenore.Kleinman@usdoj.gov
- Maria D. Giannirakis ust06 maria.d.giannirakis@usdoj.gov

## Manual Notice List

The following is the list of **parties** who are **not** on the list to receive e-mail notice/service for this case (who therefore require manual noticing/service).

Emily S. Donahue  
Jackson Walker L.L.P.  
901 Main Street, Suite 6000  
Dallas, TX 75202

Christine A. Arnold  
6005 Twin Lakes Drive  
Parma, OH 44219

Charles R. Dyas, Jr.  
Barnes & Thornburg LLP  
Fifth Third Center  
21 East State Street, Suite 1850  
Columbus, OH 43215

Leon Friedberg  
Dennis J. Concilla  
Carl A. Aveni  
H. Ritchey Hollenbaugh  
Carlile Patchen & Murphy LLP  
366 Broad Street  
Columbus, OH 43215

Robert Boote  
Ballard Spahr LLP  
919 North Market Street, 12th Floor  
Wilmington, DE 19801-3034

Leslie C Heilman  
Ballard Spahr LLP  
919 North Market Street, 12th Floor  
Wilmington, DE 19801-3034

Lenore Kleinman  
Office of the United States Trustee  
Howard M. Metzenbaum U.S. Courthouse  
201 Superior Avenue East, Suite 441  
Cleveland, Ohio 44114

Lothar Jung  
12962 W. Linden Avenue  
Parma, OH 44130-5817

Mary I. Mace  
3001 Bickleigh Avenue  
Akron, OH 44312-5921

Eric W. Sleeper  
Barton Barton & Plotkin LLP  
420 Lexington Avenue  
New York, NY 10170

Gary Sallee  
11650 Olivo Road, Suite 1000-333  
Fishers, IN 46037

Robert Hanlon  
Eileen Hanlon  
P.O. Box 42  
State Route 43  
Mogadore, OH 44260

John McCauley, Esq.  
J. Richard Kiefer, Esq.  
Bingham McHale LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, IN 46204

Tobey Daluz  
Ballard Spahr LLP  
919 North Market Street, 12th Floor  
Wilmington, DE 19801-3034

Jay Jaffe  
Faegre Baker Daniels LLP  
600 E. 96<sup>th</sup> Street, Suite 600  
Indianapolis, IN 46240

Michael V. Demczyk  
12370 Cleveland Avenue, NW  
P.O. Box 867  
Uniontown, OH 44685

Charles Boerner  
1848 Ritchie Road  
Stow, OH 44224

John J. Kuster  
Benjamin R. Nagin  
Sidley Austin LLP  
787 Seventh Avenue  
New York, NY 10019