

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

<b>In re:</b>	)	<b>Chapter 11</b>
	)	
<b>FIBRANT, LLC, et al.,<sup>1</sup></b>	)	<b>Case No. 18-10274 (SDB)</b>
	)	
	)	
<b>Debtors.</b>	)	<b>Jointly Administered</b>
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**DEBTORS’ MOTION FOR EXPEDITED HEARING ON MOTION SEEKING  
APPROVAL OF MODIFICATIONS TO THE DEBTORS’ CONFIRMED SECOND  
AMENDED AND RESTATED PLAN OF LIQUIDATION WITHOUT THE NEED FOR  
FURTHER DISCLOSURE OR SOLICITATION OF VOTES**

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The above-captioned debtors (collectively, the “Debtors”) hereby file this motion (the “Motion”) for entry of an order (the “Expedited Hearing Order”), substantially in the form attached to this Motion as **Exhibit A**, pursuant to Rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), setting an expedited hearing with respect to the *Debtor’s Motion Pursuant to Section 1127 of the Bankruptcy Code Seeking Approval of Modifications to the Debtors’ Confirmed Second Amended and Restated Plan of Liquidation Without the Need for*

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Fibrant, LLC (6694); Evergreen Nylon Recycling, LLC (7625); Fibrant South Center, LLC (8270); and Georgia Monomers Company, LLC (0042).



*Further Disclosure or Solicitation of Votes dated as November 12, 2019* [Docket No. 959] ("Modifications Motion").<sup>2</sup> In support of this Motion, the Debtors respectfully state the following:

**I. JURISDICTION AND VENUE**

1. The Court has jurisdiction over the Debtors, their estates, and this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b).

2. Venue of this proceeding and this Motion in the Southern District of Georgia is proper under 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief requested herein are Section 105(a) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 9006(c)(1) of the Bankruptcy Rules.

**II. BACKGROUND**

4. On February 23, 2018, the Debtors filed with this Court their voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

5. On February 13, 2019, the Debtors filed the *Disclosure Statement for Amended and Restated Plan of Liquidation Filed by Fibrant, LLC, et al.* [Docket No. 601] (the "Disclosure Statement").

6. On May 22, 2019, the Debtors filed the original version of the Plan.

7. On February 7, 2019, the Court conducted a hearing on approval of the Disclosure Statement, and on February 14, 2019, the Court entered the *Order Approving (I) the Disclosure Statement with Respect to Amended and Restated Plan of Liquidation; (II) Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Plan; and (III) Related Notice and Objection Procedures* [Docket No. 604].

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<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to them in the Modifications Motion.

8. On May 29, 2019, this Court entered the Confirmation Order confirming the Plan.<sup>3</sup> The Effective Date of the Plan occurred on June 26, 2019.<sup>4</sup>

9. On November 12, 2019, the Debtors filed the Modifications Motion. This Court fixed a hearing on the Modifications Motion to be held on January 30, 2020. The last day for filing objections to the Modifications Motion was fixed as January 20, 2020.<sup>5</sup>

### **III. RELIEF REQUESTED**

10. By this Motion, the Debtors respectfully request entry of an order expediting the hearing of the Modifications Motion by scheduling such motion for hearing on or prior to December 9, 2019.

### **IV. BASIS FOR RELIEF**

11. Rule 9006(c)(1) of the Bankruptcy Rules provides that “when an act is required or allowed to be done at or within a specified time . . . the court for cause shown may in its discretion with or without motion or notice order the period reduced.” Section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

12. The Debtors request a hearing on the Modifications Motion prior to year end to preserve significant value for the Debtors’ estates and their stakeholders.

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<sup>3</sup> *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended and Restated Plan of Liquidation Dated as May 22, 2019 Filed by the Debtors* [Docket No. 855].

<sup>4</sup> *Notice of Confirmation of Plan, Permanent Injunction, Various Deadlines, Effective Date*, entered on June 28, 2019 [Docket No. 887].

<sup>5</sup> *Notice of Hearing on Debtor’s Motion Pursuant to Section 1127 of the Bankruptcy Code Seeking Approval of Modifications to the Debtors’ Confirmed Second Amended and Restated Plan of Liquidation Without the Need for Further Disclosure or Solicitation of Votes*, entered on November 29, 2019 [Docket No. 963].

13. If the transactions requested by the Modifications Motion are consummated before year end, the ChemicalInvest Parties who contributed tens of millions of dollars to these chapter 11 cases will realize substantial tax savings available under Dutch law worth millions of dollars. In the absence of approval of the Modifications Motion and consummation of the transactions contemplated thereunder before year end, the ChemicalInvest Parties will lose the ability to realize these savings and would be incentivized to pursue remedies that are adverse to the interests of the Debtors' creditors.

14. The relief sought in the Modifications Motion is the outcome of negotiations among the Debtors, the Creditor Trustee, and the ChemicalInvest Parties and is designed to maximize value for the estates and its stakeholders.

15. Further, an expedited hearing would not result in any adverse impact to any parties in interest.

16. In particular, the approval of the Modifications Motion would have no impact on the interests of the United States because the proposed order sought in the Modifications Motion specifically provides that the Modifications will not change the obligations of the Debtors or their estates to pay U.S. Trustee fees in effect prior to the Modifications.

17. The Debtors are not aware of any objections from the U.S. Trustee, nor do the Debtors expect any, nor believe a valid basis for any objection exists.

18. In sum, the Modifications and the transactions contemplated thereby prior to year end will facilitate valuable and significant tax efficiencies. The Debtors respectfully submit that it is in the interests of justice and equity to grant the relief requested in this Motion to encourage the parties to continue working together to maximize the value of the estates.

19. Accordingly, the relief requested in this Motion should be granted.

**V. NOTICE**

20. The Debtors will provide notice of this Motion to: (a) the U.S. Trustee; (b) the Office of the Attorney General of the states in which the Debtors operate; (c) the U.S. Attorney's Office; (d) counsel to the Committee; (e) counsel to the Creditor Trustee; (f) counsel to the ChemicalInvest Parties; (g) ELT; (h) counsel to the Liquidating Agent; (i) counsel to Delaware Trust Company; (j) the Internal Revenue Service; (k) the SEC; (l) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (m) any other party in interest entitled to notice of this Motion. The Debtors respectfully submit that such notice is sufficient and that no further notice of this Motion is required.

**VI. NO PRIOR REQUEST**

21. No prior request for the relief sought in this Motion has been made to this or any other court.

*[Remainder of This Page Intentionally Left Blank]*

**WHEREFORE**, for the reasons set forth herein, the Debtors respectfully request entry of the Expedited Hearing Order granting the relief requested herein and such other and further relief to the Debtors as is just and proper.

Dated: November 26, 2019  
Augusta, Georgia

**KING & SPALDING LLP**

/s/Paul K. Ferdinands

Paul K. Ferdinands  
Georgia Bar No. 258623  
pferdinands@kslaw.com  
Jonathan W. Jordan  
Georgia Bar No. 404874  
jjordan@kslaw.com  
Sarah L. Primrose  
Georgia Bar No. 532582  
sprimrose@kslaw.com  
1180 Peachtree Street  
Atlanta, Georgia 30309-3521  
Telephone: (404) 572-4600  
Facsimile: (404) 572-5100

and

**KLOSINSKI OVERSTREET, LLP**

James C. Overstreet Jr.  
Georgia Bar No. 556005  
jco@klosinski.com  
1229 Augusta West Parkway  
Augusta, GA 30909  
Telephone: (706) 863-2255  
Facsimile: (706) 863-5885

*Counsel for the Debtors-in-possession*

**EXHIBIT A**

**(Expedited Hearing Order)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
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<b>In re:</b>	)	<b>Chapter 11</b>
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<b>Debtors.</b>	)	<b>Jointly Administered</b>
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**ORDER AUTHORIZING EXPEDITED HEARING ON MOTION SEEKING  
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This matter is before the Court on the *Debtors' Motion for Expedited Hearing on Motion Seeking Approval of Modifications to the Debtors' Confirmed Second Amended and Restated Plan of Liquidation Without the Need for Further Disclosure or Solicitation of Votes* (the "Motion")<sup>2</sup> filed by the above-captioned debtors (collectively, the "Debtors"). The Court has considered the Motion and the other matters reflected in the record. It appears that the Court has jurisdiction over this proceeding; that this is a core proceeding; that no further notice is necessary; and this Court having determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, as set forth in this Order.
2. A hearing regarding the Modifications Motion will be held on the \_\_\_\_ day of December, 2019 at \_\_\_\_\_ a.m./p.m. (Eastern Time) at the Federal Justice Center, Plaza Bldg, 600 James Brown Blvd (9th St), Augusta, GA 30901.
3. Immediately after the entry of this Order, counsel for the Debtors shall serve a copy of this Order and notice of the Motion on parties originally served with the Modifications Motion in the manner described in the Motion.
4. The Debtors shall file a certificate of service with the Clerk of the Court certifying the above-directed service.
5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation or interpretation of this Order.

**[END OF ORDER]**

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

Order submitted by:

**KING & SPALDING LLP**

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Georgia Bar No. 258623

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Sarah L. Primrose

Georgia Bar No. 532582

sprimrose@kslaw.com

1180 Peachtree Street

Atlanta, Georgia 30309-3521

Telephone: (404) 572-4600

Facsimile: (404) 572-5100

and

**KLOSINSKI OVERSTREET, LLP**

James C. Overstreet Jr.

Georgia Bar No. 556005

jco@klosinski.com

1229 Augusta West Parkway

Augusta, GA 30909

Telephone: (706) 863-2255

Facsimile: (706) 863-5885

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**[END OF ORDER]**

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Order submitted by:

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James C. Overstreet Jr.

Georgia Bar No. 556005

jco@klosinski.com

1229 Augusta West Parkway

Augusta, GA 30909

Telephone: (706) 863-2255

Facsimile: (706) 863-5885

*Counsel for the Debtors-in-possession*