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Proposed Counsel for Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
<i>In re</i>	:	Chapter 11
	:	
THE McCLATCHY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (___)
	:	
Debtors. ¹	:	(Joint Administration Pending)
	:	
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**DEBTORS’ EMERGENCY MOTION FOR ENTRY OF BRIDGE
WAGES ORDER (I) AUTHORIZING NON-INSIDER DEBTORS’ EMPLOYEES
TO CONTINUE USING CORPORATE CREDIT CARDS, (II) GRANTING
WELLS FARGO A PRIMING LIEN, AND (III) GRANTING RELATED RELIEF**

¹ The last four digits of Debtor The McClatchy Company’s tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, 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 of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.



The McClatchy Company and certain of its affiliates, the debtors and debtors in possession in the above-captioned cases (collectively, the “**Debtors**,” the “**Company**,” or “**McClatchy**”) respectfully represent as follows in support of this emergency motion (the “**Emergency Motion**”):

RELIEF REQUESTED

1. By this Emergency Motion, the Debtors seek, immediately following the filing of the Debtors’ petitions, entry of a bridge order, substantially in the form attached hereto as **Exhibit A** (the “**Bridge Order**”), (a) granting the Debtors’ non-insider employees² authority to continue using the Corporate Credit Cards (as defined herein), in the ordinary course of business and consistent with the Debtors’ prepetition practices, between the date hereof and the entry of the interim order granting or denying the relief requested in the *Debtors’ Motion for Entry of Interim and Final Orders Authorizing the Debtors to Pay Prepetition Wages, Compensation, and Employee Benefits* (the “**Employee/Wages Motion**”) filed substantially contemporaneously herewith (the “**Bridge Period**”), (b) granting Wells Fargo a priming lien and security interest on the Collateral (as defined herein) pursuant to section 364(d)(1) of the Bankruptcy Code, and (c) granting related relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction to consider this Emergency Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure

² The Debtors’ insider employees have agreed not to use the Corporate Credit Cards (as defined herein) during the Bridge Period (as defined herein).

(the “**Bankruptcy Rules**”), to the entry of a final order by the Court in connection with this Emergency Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. This is a core proceeding under 28 U.S.C. § 157(b).

3. Venue of these cases and this Emergency Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

4. The legal predicates for the relief requested herein are sections 105(a), 363, 364, 1107(a), and 1108 of title 11 of the United States Code (the “**Bankruptcy Code**”), Bankruptcy Rules 4001, 6003, and 6004, and Rules 4001-2(c) and 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Bankruptcy Rules**”).

BACKGROUND

I. The Chapter 11 Cases

5. On the date hereof (the “**Petition Date**”), each Debtor commenced a case by filing a petition for relief under chapter 11 of the Bankruptcy Code (collectively, the “**Chapter 11 Cases**”). The Debtors have requested that the Chapter 11 Cases be jointly administered.

6. The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

7. To date, the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”) has not appointed a creditors’ committee in the Chapter 11 Cases, nor has any trustee or examiner been appointed therein.

8. The McClatchy Company and its direct and indirect Debtor subsidiaries are a diversified digital and print media business, focused on providing strong, independent local journalism to 30 communities across 14 states, as well as national news coverage through the Debtors’ Washington, D.C.-based bureau. The Debtors also provide a full suite of both local and

nationwide digital marketing services. The Debtors' businesses are comprised of websites and mobile applications, mobile news and advertising, video products, a digital marketing agency, daily newspapers, niche publications, other print and digital direct marketing services, and community newspapers. The Debtors' business operations, corporate and capital structures, and restructuring efforts are described in greater detail in the *Declaration of Sean M. Harding in Support of Chapter 11 Petitions and First Day Papers* filed substantially contemporaneously herewith (the "**First Day Declaration**").³

CORPORATE CREDIT CARD PROGRAM

9. In the ordinary course of business, the Debtors maintain company-paid credit cards (the "**Corporate Credit Cards**"). The Corporate Credit Cards are issued by Wells Fargo Bank, N.A. ("**Wells Fargo**") under the WellsOne Commercial Card Agreement (as amended, restated, supplemented, or otherwise modified from time to time, the "**Card Agreement**") between the Debtors and Wells Fargo. In general, the Corporate Credit Cards are used by current employees for travel, lodging, ground transportation, meals, supplies, and other business expenses (collectively, the "**Reimbursable Expenses**"). As of the Petition Date, there are 1,154 active Corporate Credit Cards held by employees to pay for the Reimbursable Expenses. Amounts charged to the Corporate Credit Cards are paid directly by the Debtors from a cash collateral reserve held by Wells Fargo (the "**Collateral**"). Pursuant to the Card Agreement, Wells Fargo has and shall continue to have a valid and perfected, non-avoidable first-priority lien in such Collateral and any proceeds thereof.

³ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.

10. Prior to the Petition Date, Wells Fargo, who administers the Company's Corporate Credit Cards, informed the Debtors that it would place a freeze on the Corporate Credit Cards until relief was granted pursuant to the Employee/Wages Motion unless the Bridge Order is approved immediately following the filing of the Debtors' petitions. Although the Debtors do not believe the freeze is warranted given the ordinary course nature of the charges, the Debtors have been unable to convince Wells Fargo to agree not to freeze the Corporate Credit Cards postpetition.

11. Any freeze to the Corporate Credit Cards during the Bridge Period would cause significant disruption to the Debtors' business. The Debtors' employees rely on the Corporate Credit Cards to pay for costs incurred in connection with their duties. For example, reporters, advertising sales employees, and business segment leaders all use the Corporate Credit Cards to book travel accommodations such as flights, hotels, and meals.

12. The experience of having their Corporate Credit Cards declined would likely cause the workforce to lose confidence in the Debtors and the assertions that their day-to-day practices will continue as business as usual, which could have a detrimental impact on morale and retention. In addition, if the employees were forced to personally bear their work-related expenses, the Debtors' relationship with their employees could be greatly strained, and it would place a greater administrative burden on both the employees and the Debtors to review and administer employee reimbursements. Further, the employees may, in light of the uncertainty caused by the declined Corporate Credit Cards, be unwilling to incur expenses on the Debtors' behalf.

13. The Reimbursable Expenses may represent a significant cost to the employees who incur them, but represent a relatively minimal cost to the Debtors' estates in light of the

overall benefits achieved. Moreover, any charges made to the Corporate Credit Cards after the Petition Date are postpetition ordinary course expenses entitled to administrative priority.

14. In addition, the advertising sales employees use the Corporate Credit Cards in connection with their day-to-day sales efforts, such as taking advertising clients out to meals or events. Because advertising revenue makes up approximately half of the Debtors' revenues, having Corporate Credit Card charges declined in the presence of advertising clients would be detrimental to the Debtors' reputation, client relationships, and revenues.

15. The Debtors anticipate, based on past practices, that they will expend approximately \$200,000 over the course of the Bridge Period on account of charges to the Corporate Credit Cards. As set forth herein and in the Employee/Wages Motion, the Debtors are seeking authority, but not direction, to continue using the Corporate Credit Cards in the ordinary course of business and consistent with the Debtors' prepetition practices pursuant to the Employee/Wages Motion. However, any such relief would not be granted until after the Debtors have their first day hearing. Through this Emergency Motion, the Debtors are seeking to avoid the potentially severe disruption to their businesses that would result if employees were to attempt to use the Corporate Credit Cards during the Bridge Period only to find that such cards were declined.

EMERGENCY RELIEF IS WARRANTED

16. Under section 363(c)(1) of the Bankruptcy Code, a debtor in possession "may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business . . . and may use property of the estate in the ordinary course of business without notice or a hearing." Purchases made using the Corporate Credit Cards fall within the ordinary course of business and the Debtors are permitted to continue reimbursing such purchases under

section 363(c)(1). The Debtors' employees have historically used the Corporate Credit Cards to pay for expenses incurred in connection with their ordinary course day-to-day professional obligations. In addition, the use of credit cards and similar payment methods is widespread at companies across the United States as a means of facilitating business activities. As a result, the Debtors believe that they do not require the Court's approval to continue using the Credit Cards on a postpetition basis. Nevertheless, absent entry of the Bridge Order, Wells Fargo will not agree to continue to extend the Debtors credit on a postpetition basis under the Corporate Credit Cards until the Court enters an order approving their continued use and payment of any prepetition obligations, which relief the Debtors are seeking in their Employee/Wages Motion.

17. Bankruptcy Rule 4001(c) provides that a motion seeking emergency relief "shall set forth facts to support a finding that immediate or irreparable harm will be caused to the estate if immediate relief is not granted before the final hearing." *See In re Ames Dept. Stores, Inc.*, 115 B.R. 34, 36 (Bankr. S.D.N.Y. 1990) (authorizing \$25 million in emergency financing as the debtors had virtually no trade credit and the debtors have received few goods). Similarly, Local Bankruptcy Rule 4001-2(c) states that "[a] motion that seeks entry of an emergency or interim order before a final hearing under Bankruptcy Rule 4001(b)(2) or (c)(2) shall describe the amount and purpose of funds sought to be used or borrowed on an emergency or interim basis and shall set forth facts to support a finding that immediate or irreparable harm will be caused to the estate if immediate relief is not granted before the final hearing."

18. Bankruptcy Rule 6003(b) provides that, to the extent relief is necessary to avoid immediate and irreparable harm, a bankruptcy court may issue an order granting "a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose prior to the petition" before twenty-one (21) days

after filing of the petition. Fed. R. Bankr. P. 6003(b); *see also In re First NLC Fin. Servs, LLC*, 382 B.R. 547, 549 (Bankr. S.D. Fla. 2008). In explicating the standards governing preliminary injunctions, the Second Circuit instructed that irreparable harm “‘is a continuing harm which cannot be adequately redressed by final relief on the merits’ and for which ‘money damages cannot provide adequate compensation.’” *Kamerling v. Massanari*, 295 F.3d 206, 214 (2d Cir. 2002) (quoting *N.Y. Pathological & X-Ray Labs., Inc. v. INS*, 523 F.2d 79, 81 (2d Cir. 1975)). Further, the “harm must be shown to be actual and imminent, not remote or speculative.” *Id.*; *see also Rodriguez v. DeBuono*, 175 F.3d 227, 234 (2d Cir. 1999). The Debtors submit that, for the reasons already set forth herein, the relief requested in this Motion is necessary to avoid immediate and irreparable harm.

19. Moreover, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate[s] and operating the business[es] for the benefit of [their] creditors and (if the value justifies) equity owners.” *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). Implicit in the fiduciary duties of any debtor in possession is the obligation to “protect and preserve the estate, including an operating business’ going-concern value.” *Id.*

20. The Court may also authorize the relief requested based on section 105(a) of the Bankruptcy Code. Section 105(a), which codifies the inherent equitable powers of the bankruptcy court, empowers the bankruptcy court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

21. As set forth in detail above, any freeze to the Corporate Credit Cards during the Bridge Period would cause substantial disruptions to the Debtors’ businesses, to the detriment of all parties in interest in these Chapter 11 Cases. The Debtors rely on the ability of their

employees to pay for each of their work-related purchases and expenses using the Corporate Credit Cards, and their inability to do so would severely damage the Debtors' reputation and their relationships with employees and clients. In addition, such a disruption could have a meaningful impact on the Debtors' advertising revenues.

22. For the foregoing reasons, the Court should grant this Emergency Motion and authorize the Debtors to continue to use the Corporate Credit Cards during the Bridge Period as set forth herein.

**PAYMENT OF PREPETITION REIMBURSABLE EXPENSES IS
APPROPRIATE UNDER THE DOCTRINE OF NECESSITY**

23. As a result of the commencement of the Chapter 11 Cases, and in the absence of an order of the Court providing otherwise, the Debtors will be prohibited from paying or otherwise satisfying prepetition Reimbursable Expenses. The Debtors believe that the only prepetition amounts that might be paid under the Bridge Order are hotel charges for reporters who checked into a hotel prepetition but checked out postpetition. Wells Fargo is requiring that the Bridge Order authorize the debtors to pay prepetition amounts or they will freeze the Corporate Credit Cards. As described above, failing to honor these obligations would have devastating consequences for the Debtors' ability to operate their business during these Chapter 11 Cases and, thus, the Debtors' reorganization. Authorization to pay the prepetition Reimbursable Expenses is, therefore, necessary to maximize the value of the Debtors' estates for all creditors and stakeholders.

24. Furthermore, the Debtors only plan to receive advances from Wells Fargo under the Corporate Credit Cards during the Bridge Period, not pay down the balance of their Corporate Credit Cards. In any event, any such payment would be paid out of the Collateral as described above. Moreover, it is anticipated that payment of such prepetition Reimbursable

Expenses will be approved under the first-day order granting the Employee/Wage Motion being contemporaneously filed.

25. The bankruptcy court's power to authorize the pre-plan satisfaction of prepetition claims whose payment is critical to the debtor's business is firmly established under the "doctrine of necessity," which "recognizes the existence of the judicial power to authorize a debtor in a reorganization case to pay prepetition claims where such payment is essential to the continued operation of the debtor." *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989).⁴ Although the "doctrine of necessity" pre-dates the Bankruptcy Code, *see Miltenberger v. Logansport Ry. Co.*, 106 U.S. 286, 309 (1882), the modern application of the doctrine of necessity is grounded in specific provisions of the Bankruptcy Code, including sections 105(a), 1107(a), and 1108. *See In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002) (fiduciary duties implicit in Bankruptcy Code section 1107(a) justify the "preplan satisfaction of a prepetition claim" where necessary to preserve going concern value). Courts have located additional support for the pre-confirmation satisfaction of critical claims in Bankruptcy Code section 363(b), under which a court may authorize the use of property outside the ordinary course of business where a debtor "articulate[s] some business justification, other than mere appeasement of major creditors" for such relief. *See Ionosphere*, 98 B.R. at 175.

⁴ *Accord In re Pers. Commc'ns Devices, LLC*, 588 B.R. 661, 666 (Bankr. E.D.N.Y. 2018); *see also In re Friedman's Inc.*, No. 09-10161 (CSS), 2011 WL 5975283, at *3 (Bankr. D. Del. Nov. 30, 2011) ("Normally, a debtor only pays pre-petition, unsecured claims through a confirmed plan of reorganization . . . [h]owever, most courts will allow such payments under the 'doctrine of necessity,' if the debtor establishes that in its business judgment making such payments is critical to the survival of the debtor's business."); *In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) ("The Supreme Court, the Third Circuit and the District of Delaware all recognize the court's power to authorize payment of pre-petition claims when such payment is necessary for the debtor's survival during chapter 11."); *In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996), *corrected* (Sept. 4, 1996); *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) ("[T]he court can permit the pre-plan payment of a prepetition obligation when essential to the continued operation of the debtor."); *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) ("[T]o justify payment of a prepetition unsecured creditor, a debtor must show that the payment is necessary to avert a serious threat to the chapter 11 process.").

26. Similar relief has been granted in this district. *See, e.g., In re Tops Holding II Corp.*, Case No. 18-22279 (RDD) (Bankr. S.D.N.Y. Feb. 21, 2018) (authorizing use of cash collateral and use of cash management system to pay critical expenses pending first day hearing); *In re Chassix Holdings, Inc.*, Case No. 15-10578 (MEW) (Bankr. S.D.N.Y. Mar. 12, 2015) (authorizing use of cash collateral to fund payroll pending first day hearing).

27. For the reasons set forth herein, for the Debtors to meet their fiduciary duties as debtors in possession, and in light of the critical need for the Debtors to preserve the going concern value of their businesses in order to effect a successful reorganization through, among other things, continuing the orderly day-to-day operations of the Debtors' business, payment of the prepetition Reimbursable Expenses as requested herein is proper in accordance with the doctrine of necessity. Accordingly, the Debtors respectfully request that they be authorized, but not directed, to pay the prepetition amounts charged to the Corporate Credit Cards.

**WELLS FARGO SHOULD BE GRANTED A PRIMING LIEN
AND SECURITY INTEREST WITH RESPECT TO THE COLLATERAL**

28. The Bridge Order provides that Wells Fargo's lien on the Collateral shall not be primed by any lien granted to any post-petition lender or other person, except for a priming lien and security interest granted to Wells Fargo by the Debtors pursuant to Bankruptcy Code section 364(d)(1) with respect to such Collateral.

29. Section 364(d) of the Bankruptcy Code provides that a debtor may obtain credit secured by a senior or equal lien on property of the estate already subject to a lien, after notice and a hearing, where (a) the debtor "is unable to obtain such credit otherwise," and (b) "there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted." 11 U.S.C. § 364(d)(1). Consent by the secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs.*

Bank FSB v. Sky Valley, Inc., 99 B.R. 117, 122 (N.D. Ga. 1989) (“[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.”).

30. Here, Wells Fargo is unwilling to advance credit to the Debtors under the Corporate Credit Cards absent the priming lien on the Collateral, and the only secured creditor being primed is Wells Fargo, who has consented to such priming lien. Because Wells Fargo has consented, the Debtors are not required to show adequate protection.

31. Based upon the foregoing, the Debtors respectfully request that the Court grant Wells Fargo a priming lien on the Collateral as set forth in the Bridge Order.

**WELLS FARGO IS ENTITLED TO THE PROTECTIONS
UNDER SECTION 364(e) OF THE BANKRUPTCY CODE**

32. Section 364(e) of the Bankruptcy Code protects a good faith lender’s right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Specifically, section 364(e) provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e).

33. Because “good faith” is not defined in the Bankruptcy Code, courts often look to case law under section 363(m). 7 Collier on Bankruptcy, 16th ed. ¶ 364.08, (“Section 364(e) is consistent with section 363(m), which provides similar protection to a buyer or lessee of property of the estate in a section 363 transaction.”). As one court in this district explained, “the

misconduct that would destroy a purchaser's good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." *In re Pan Am Corp.*, No. 91 CIV. 8319 (LMM), 1992 WL 154200, at *4 (S.D.N.Y. June 18, 1992) (citing *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)); accord *In re Gen. Growth Props, Inc.*, 423 B.R. 716, 722 (S.D.N.Y. 2010).

34. The terms of the Bridge Order were negotiated in good faith and at arm's length between the Debtors and Wells Fargo, and all obligations under the Corporate Credit Cards during the Bridge Period will be extended by Wells Fargo in good faith (as such term is used in section 364(e) of the Bankruptcy Code). Furthermore, no consideration is being provided to Wells Fargo, other than as provided in the Card Agreement and the Bridge Order. Finally, the advances under the Corporate Credit Cards pursuant to the Bridge Order will be extended in express reliance upon the protections offered by Bankruptcy Code section 364(e), and Wells Fargo should be entitled to the full protection of section 364(e) in the event that the Bridge Order or any provision thereof is vacated, reversed, or modified on appeal or otherwise.

WAIVER OF BANKRUPTCY RULE 6004(h)

35. The Debtors also request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtors seek in this Motion is necessary for the Debtors to operate without interruption and to preserve value for their estates. Accordingly, the Debtors respectfully request that the Court waive the 14-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

MOTION PRACTICE

36. This Emergency Motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated, and a discussion of their application to the Emergency Motion. Accordingly, the Debtors submit that this Motion satisfies Local Bankruptcy Rule 9013-1(a).

RESERVATION OF RIGHTS

37. Nothing in this Emergency Motion should be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors' or any other party in interest's ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise to pay any claim; (d) granting third-party beneficiary status or bestowing any additional rights on any third party; or (e) being otherwise enforceable by any third party.

NOTICE

38. Notice of this Emergency Motion will be given to: (a) the U.S. Trustee and (b) Wells Fargo. The Debtors submit that no other or further notice is required.

NO PRIOR REQUEST

39. No previous request for the relief sought herein has been made to this Court or any other court.

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CONCLUSION

The Debtors respectfully request, immediately following the filing of the Debtors' petitions, entry of the Bridge Order granting the relief requested herein and such other and further relief as may be just and proper.

Dated: New York, New York
February 13, 2020

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Proposed Counsel to Debtors and Debtors in Possession

EXHIBIT A

Proposed Bridge Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
<i>In re</i>	:	Chapter 11
	:	
THE McCLATCHY COMPANY, <i>et al.</i> ,	:	Case No. 20-10418 (___)
	:	
Debtors. ¹	:	(Joint Administration Pending)
	:	
-----	X	

BRIDGE WAGES ORDER AUTHORIZING NON-INSIDER DEBTORS' EMPLOYEES TO CONTINUE USING CORPORATE CREDIT CARDS

Upon the emergency motion (the “**Emergency Motion**”)² of the Debtors for a bridge order (this “**Bridge Order**”) under Bankruptcy Code sections 105(a), 363, 364, 1107(a), and 1108 and Bankruptcy Rules 4001, 6003, and 6004, and Local Rules 4001-2(c) and 9013-1(a), granting the Debtors’ non-insider employees limited authority to continue using the Corporate Credit Cards in the ordinary course of business and consistent with the Debtors’ prepetition practices during the time period between the date hereof and the entry of the Interim Order granting or denying the relief requested in the *Debtors’ Motion for Entry of Interim and Final Orders Authorizing the Debtors to Pay Prepetition Wages, Compensation, and Employee Benefits* filed substantially contemporaneously herewith (the “**Bridge Period**”); and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the*

¹ The last four digits of Debtor The McClatchy Company’s tax identification number are 0478. Due to the large number of debtor entities in these chapter 11 cases, for which the Debtors have requested joint administration, 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 of such information may be obtained on the website of the Debtors’ proposed claims and noticing agent at <http://www.kccllc.net/McClatchy>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 2100 Q Street, Sacramento, California 95816.

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Emergency Motion.

United States District Court for the Southern District of New York, dated January 31, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that this Court may enter a Bridge Order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Emergency Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of this Emergency Motion having been given under the particular circumstances; and it appearing that no other or further notice is necessary; and it appearing that the relief requested in the Emergency Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation thereon; and good and sufficient cause appearing therefor; it is hereby;

ORDERED, ADJUDGED, AND DECREED that:

1. The Debtors' non-insider employees are authorized to continue using the Corporate Credit Cards and performing their obligations under the Card Agreement subject to the terms and conditions thereof during the Bridge Period. Wells Fargo is authorized to make advances from time to time during the Bridge Period with a maximum exposure at any time up to \$200,000. The Debtors are authorized to pay all charges and fees pursuant to the Card Agreement whether accrued prepetition or postpetition. The indebtedness owed by Debtors to Wells Fargo in respect of the Card Agreement is secured by certain collateral (the "Collateral") pursuant to the terms of that certain Credit Agreement (and the other Loan Documents as referenced and defined therein), dated as of July 16, 2018, by and between Wells Fargo and certain of the Debtors, as such agreement may have been amended, restated, supplemented or otherwise modified from time to time. Wells Fargo has and shall continue to have a valid and perfected, non-avoidable first-priority lien in such Collateral and any proceeds thereof and may,

but shall not be required to, apply amounts from any reserve against the obligations arising under the Card Agreement. Such lien shall not be primed by any lien granted to any post-petition lender or other person except as set forth in the following sentence. To satisfy the requirement that Wells Fargo continue to have a valid and perfected, non-avoidable first-priority lien in such Collateral and any proceeds thereof, Debtors grant Wells Fargo a priming lien and security interest pursuant to Bankruptcy Code section 364(d)(1) with respect to such Collateral.

2. Wells Fargo may rely on the representation of the Debtors with respect to its use of the Corporate Credit Cards pursuant to the Card Agreement, and Wells Fargo shall not have any liability to any party for relying on such representations by the Debtors as provided for herein. Wells Fargo has acted at arms' length in good faith in connection with this Bridge Order and is entitled to rely upon the protections granted herein and by section 364(e) of the Bankruptcy Code. In accordance with section 364(e) of the Bankruptcy Code, any modification, amendment, reversal, or vacatur by subsequent order of this Court or any other court shall not affect the validity and enforceability of any advances previously made or made hereunder, or lien, claim, or priority authorized or created hereby.

3. Notwithstanding the relief granted herein and any actions taken hereunder, nothing herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claims, including any claim held by any employee or any third party. For the avoidance of doubt, nothing contained in the Emergency Motion or this Bridge Order is intended or should be construed to create an administrative priority claim on account of any employee.

4. Any party receiving payment from the Debtors is authorized and directed to rely upon the representations of the Debtors as to which payments are authorized by this Bridge Order.

5. No provision of this Bridge Order shall be construed as authority to make any payment which is subject to the provisions of Bankruptcy Code section 503(c).

6. Nothing in the Emergency Motion or this Bridge Order or the relief granted (including any actions taken or payments made by the Debtors pursuant thereto) shall be construed as (a) authority to assume or reject any executory contract or unexpired lease of real property, or as a request for the same; (b) an admission as to the validity, priority, or character of any claim or other asserted right or obligation, or a waiver or other limitation on the Debtors' or any other party in interest's ability to contest the same on any ground permitted by bankruptcy or applicable non-bankruptcy law; (c) a promise to pay any claim or other obligation; (d) granting third-party beneficiary status or bestowing any additional rights on any third party; or (e) being otherwise enforceable by any third party.

7. Notwithstanding Bankruptcy Rule 6004(h), this Bridge Order shall be effective and enforceable immediately upon entry hereof.

8. All time periods set forth in this Bridge Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

9. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Bridge Order.

10. This Court shall retain exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Bridge Order.

Dated: New York, New York
February __, 2020

UNITED STATES BANKRUPTCY JUDGE