

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

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<i>In re</i>	: Chapter 11
	:
THE McCLATCHY COMPANY, <i>et al.</i> ,	: Case No. 20-10418 (MEW)
	:
Debtors. ¹	: (Jointly Administered)
	:
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**ORDER AUTHORIZING DEBTORS TO EMPLOY AND PAY
PROFESSIONALS UTILIZED IN THE ORDINARY COURSE
OF BUSINESS *NUNC PRO TUNC* TO THE PETITION DATE**

Upon the application (the “**Motion**”)² of the Debtors for entry of an order authorizing, but not directing, the Debtors to (a) retain and employ professionals utilized by the Debtors in the ordinary course of business (collectively, the “**Ordinary Course Professionals**”) and (b) pay compensation and reimbursement of expenses of the Ordinary Course Professionals subject to certain limits set forth herein; and upon the First Day Declaration and the OCP Retention 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 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 final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to

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 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 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 Motion.



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28 U.S.C. §§ 1408 and 1409; and due and sufficient notice of the 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 Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor; it is hereby;

ORDERED, ADJUDGED, AND DECREED that:

1. The Motion is GRANTED solely to the extent set forth herein.
2. The Debtors are hereby authorized, but not directed, to employ, retain, and pay, pursuant to Bankruptcy Code sections 105(a), 327, 330, and 331, the Ordinary Course Professionals listed on **Exhibit C** attached to the Motion, *nunc pro tunc* to the Petition Date, without the necessity of a separate formal retention application, in accordance with the procedures set forth herein:
 - a. Within five days after entry of this Order, the Debtors shall serve this Order upon each Ordinary Course Professional.
 - b. No later than 30 days after entry of this Order, each Ordinary Course Professional, if such Ordinary Course Professional intends to be paid during the course of these Chapter 11 Cases, shall file with the Court and serve a verified statement pursuant to Bankruptcy Rule 2014, substantially in the form attached as **Exhibit D** to the Motion (the “**Verified Statement**”) (the form of which is hereby approved), including an explanation of prepetition services rendered and postpetition services to be provided to the Debtors, upon the following parties (collectively, the “**Notice Parties**”):
 - (i) the Debtors, The McClatchy Company, 2100 Q Street, Sacramento, CA 95816, Attn: Billie McConkey (bmconkey@mcclatchy.com);
 - (ii) proposed counsel to the Debtors, Skadden, Arps, Slate, Meagher & Flom LLP, 300 S. Grand Avenue, Suite 3400, Los Angeles, CA 90071, Attn: Van C. Durrer II (van.durrer@skadden.com) and Destiny N. Almogue (destiny.almogue@skadden.com);
 - (iii) proposed co-counsel for the Debtors, Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, NY 10119 Attn: Kyle J. Ortiz (kortiz@teamtogut.com) and Amy Oden (aoden@teamtogut.com);

- (iv) William K. Harrington, United States Trustee For Region 2, United States Department of Justice, Office of the United States Trustee, 201 Varick Street, Room 1006, New York, New York 10014, Attn: Benjamin J. Higgins, Esq. (benjamin.j.higgins@usdoj.gov), and Brian S. Masumoto Esq. (brian.masumoto@usdoj.gov);
 - (v) counsel to the DIP Administrative Agent, Choate, Hall & Stewart LLP, Two International Place, Boston, MA 02110, Attn: Jonathan D. Marshall (jmarshall@choate.com) and Kevin Simard (ksimard@choate.com);
 - (vi) counsel to the Chatham Creditors, Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019; Attn.: Andrew N. Rosenberg (arosenberg@paulweiss.com), Elizabeth R. McColm (emccolm@paulweiss.com), and John Weber (jweber@paulweiss.com);
 - (vii) proposed counsel to the official committee of unsecured creditors (the “**Committee**”) appointed in these Chapter 11 Cases, Stroock & Stroock & Lavan LLP, 180 Maiden Lane, New York, New York 10038; Attn: Kristopher M. Hansen (khansen@stroock.com), Frank A. Merola (fmerola@stroock.com), and Gabriel E. Sasson (gsasson@stroock.com);
 - (viii) any party entitled to notice pursuant to Local Bankruptcy Rule 9013-1(b); and
 - (ix) any party who has filed a notice of appearance or a request for service of documents.
- c. Any objection to the retention of an Ordinary Course Professional (an “**Objection**”) by a Notice Party must be filed and served within 10 days upon receipt of such Verified Statement, or such other date as may be agreed to by the applicable Ordinary Course Professional or ordered by the Court (the “**Objection Deadline**”). Objections, if any, shall be served upon the affected Ordinary Course Professional and the Notice Parties on or before the Objection Deadline.
- d. If no Objection is served on or before the Objection Deadline, or if any Objection is timely resolved as set forth below, then the employment, retention, and payment of the Ordinary Course Professional shall be deemed approved without further order of this Court.
- e. If any such timely filed and served Objection is received and not resolved within 20 days of service of such Objection, the matter may be scheduled for hearing before the Court at the next regularly scheduled omnibus hearing or such other date otherwise agreeable to the Ordinary Course Professional, the Debtors, and the objecting party (subject to the Court’s availability).

- f. Subject to the limitations set forth above, the Debtors are authorized, but not directed, to pay, without formal application to the Court by any Ordinary Course Professional, 100% of the interim fees and disbursements of each Ordinary Course Professional upon submission to the Debtors of an invoice setting forth in reasonable detail the nature of the services rendered after the Petition Date and calculated in accordance with such Ordinary Course Professional's standard billing practices (without prejudice to the Debtors' right to dispute any such invoices); *provided, however*, that, subject to further order of the Court, such interim fees, excluding expenses and disbursements, do not exceed the following totals: (a)(i) \$150,000 per month for each Tier 1 Ordinary Course Professional and (ii) \$75,000 per month for each Tier 2 Ordinary Course Professional (both on average over a three-month rolling basis) (collectively, the "**Monthly Fee Caps**"); and (b)(i) \$675,000 for the period through confirmation of a plan for each Tier 1 Ordinary Course Professional and (ii) \$337,500 for the period through confirmation of a plan for each Tier 2 Ordinary Course Professional (collectively, the "**Total Fee Caps**," and together with the Monthly Fee Caps, the "**Fee Caps**").
- g. To the extent that an Ordinary Course Professional seeks fees in excess of its respective Monthly Fee Cap, such fees in excess of the Monthly Fee Cap shall be subject to prior approval of the Court in accordance with Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, the Local Bankruptcy Rules, and applicable orders of the Court; *provided, however*, that the applicable Ordinary Course Professional shall be entitled to interim payment of its requested fees up to the applicable Monthly Fee Cap amount pending the Court's allowance of those requested fees in excess of the Monthly Fee Cap.
- h. In the event that an Ordinary Course Professional seeks fees in excess of its respective Total Fee Cap during the duration of these Chapter 11 Cases, that Ordinary Course Professional shall seek separate retention under Bankruptcy Code sections 327 and 328; *provided, however*, that any such Ordinary Course Professional shall be entitled to interim payments of its requested fees up to the applicable Total Fee Cap amount, pending that Ordinary Course Professional's retention pursuant to Bankruptcy Code sections 327 and 328 and the Court's allowance of those requested fees in excess of the Total Fee Cap.
- i. Within 30 days after the end of, and with respect to, each full three-month period (each, a "**Quarter**"), with the first Quarter commencing on the Petition Date and ending May 13, 2020, the Debtors shall file a statement of fees and disbursements for the immediately preceding Quarter with the Court and serve such statement on the Notice Parties. Such statement shall include the following information for each Ordinary Course Professional: (a) the name of the Ordinary Course Professional; (b) the aggregate amounts paid as fees for services rendered and reimbursement of expenses incurred by such Ordinary Course Professional during the reported Quarter; (c) the aggregate amounts paid as fees for services rendered and reimbursement of expenses incurred by such Ordinary Course Professional in the case to date; and (d) a general description of the services rendered by each Ordinary Course Professional.

3. The Debtors are also authorized to employ, retain, and pay additional Ordinary Course Professionals not currently listed in **Exhibit C** of the Motion (the “**Additional Ordinary Course Professionals**”) by filing with the Court a supplement to **Exhibit C** (the “**Supplement**”). The Supplement shall list the name and estimated monthly fees of the Additional Ordinary Course Professional, along with a brief description of the services to be rendered and the Additional Ordinary Course Professional’s respective Tier, and shall otherwise comply with the terms of this Order. The 30-day period for any Additional Ordinary Course Professional to file a Verified Statement shall commence upon the date of filing of the Supplement. The Additional Ordinary Course Professionals shall be subject to all other requirements applicable to the Ordinary Course Professionals.

4. Nothing herein shall affect the Debtors’ right to apply to this Court for authorization to employ any Ordinary Course Professional, effective as of the Petition Date, should it later be determined, as a result of the Ordinary Course Professional exceeding either of its respective Fee Caps, or for any other reason, that the Debtors are required to file a formal retention application with respect to such Ordinary Course Professional.

5. This Order shall not apply to any professional retained by the Debtors pursuant to a separate order of the Court.

6. The Debtors’ right to dispute any invoices shall not be affected or prejudiced in any manner by any of the provisions herein.

7. Notwithstanding anything to the contrary contained in this Order, (a) any payment to be made, or authorization contained, hereunder shall be subject to the requirements imposed on the Debtors under the DIP Financing Orders approved by this Court in the Chapter 11 Cases, and (b) to the extent there is any inconsistency between the terms of such DIP Financing Orders

and any action taken or proposed to be taken hereunder, the terms of such DIP Financing Orders shall control

8. Nothing in this Order or the Motion shall constitute, nor is intended to constitute, or be deemed to constitute authorization for the Debtors to pay any prepetition amounts owed to Ordinary Course Professionals.

9. Nothing in the Motion or this 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.

10. Notice of the Motion satisfies the requirements set forth in Bankruptcy Rule 6004(a).

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

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

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

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

Dated: New York, New York
March 11, 2020

s/Michael E. Wiles
HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE